BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT

RESOLUTION NO. 2025-

CONSIDERING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE DELTA CONVEYANCE PROJECT AND MAKING CEQA RESPONSIBLE AGENCY FINDINGS FOR PRE-CONSTRUCTION WORK; APPROVING FUNDING OF PLANNING AND PRE-CONSTRUCTION WORK FOR CALENDAR YEARS 2026 AND 2027 IN AN AMOUNT NOT TO EXCEED $9,690,000

WHEREAS, on April 29, 2019, Governor Gavin Newsom signed Executive Order N-10-19, directing the California Natural Resources Agency, California Environmental Protection Agency, and California Department of Food and Agriculture to develop a comprehensive strategy to build a climate-resilient water system and ensure healthy waterways through the twenty-first century; and

WHEREAS, after a public input period, on July 28, 2020, Governor Newsom released the California Water Resilience Portfolio, which identified a suite of complementary actions to ensure safe and resilient water supplies, flood protection, and healthy waterways for the state's communities, economy, and environment; among these actions was a project (the "Delta Conveyance Project") entailing new diversion and conveyance facilities in the Sacramento-San Joaquin Delta ("Delta") to safeguard the State Water Project ("SWP"); and

WHEREAS, the primary purpose of the SWP is to convey water to local and regional water suppliers across California that, in turn, supply end users engaged in the beneficial uses of that water; to this end, SWP has long-term contracts to supply water to 29 public water agencies, known as State Water Contractors, that distribute that water to farms, homes, and industry; and

WHEREAS, the Santa Clara Valley Water District (Valley Water) is one of the State Water Contractors, and it possesses a long-term water supply contract with the Department of Water Resources ("DWR"), which is the owner and operator of the SWP, which allows for the annual importation of water via the SWP; and

WHEREAS, Valley Water's allocation of imported SWP water fluctuates annually based on a variety of factors, including Delta conditions, reservoir levels, rainfall, snowpack, and pumping capacity in the Delta, as well as operational limits for fish and wildlife protection, water quality, and environmental and legal restrictions; and

WHEREAS, the infrastructure that enables the conveyance, or movement, of water supply from the Delta to Valley Water is of great consequence to Valley Water; and

WHEREAS, factors such as the continuing subsidence of lands, risk of seismic activity and levees within the Delta, sea level rise, precipitation change, warmer temperatures, and wider variations in the hydrological conditions associated with climate change threaten the reliability of the current SWP water conveyance system; and

WHEREAS, the Delta Conveyance Project involves the construction and future operation of new water intake facilities on the Sacramento River in the north Delta and a single main tunnel to divert and move water entering the north Delta from the Sacramento Valley watershed to existing SWP facilities in the south Delta, which would result in a dual conveyance system in the Delta; and

WHEREAS, DWR's fundamental purpose in proposing to develop the Delta Conveyance Project is to restore and protect the reliability of SWP water deliveries to the State Water Contractors, including Valley Water; and

WHEREAS, in January 2020, DWR, as lead agency for the Delta Conveyance Project under the California Environmental Quality Act ("CEQA"), filed and circulated a Notice of Preparation of an Environmental Impact Report ("EIR") for the Delta Conveyance Project; and

WHEREAS, in July 2022, DWR circulated a Draft EIR (State Clearinghouse No. 2020010227) for the Delta Conveyance Project for a 92-day review period, beginning on July 27, 2022, and closing on October 27, 2022; and

WHEREAS, the EIR analyzed the potential environmental impacts of data collection and field work investigations, including ground-disturbing geotechnical work, water quality and hydrogeologic investigations, agronomic testing, the installation of monitoring equipment, construction test projects, pre-construction design work, and engineering work (collectively, "Pre-Construction Work") that would occur after certification of the EIR and that would guide the ultimate design, appropriate construction methods, and monitoring programs for the Delta Conveyance Project; and

WHEREAS, the EIR concluded that the Delta Conveyance Project, including the Pre-Construction Work, would have less than significant impacts without the implementation of mitigation as to some resources; less than significant impacts with the implementation of mitigation measures identified in a Mitigation Monitoring and Reporting Program ("MMRP") as to other resources; and significant and unavoidable impacts as to Agricultural Resources, Aesthetics, Cultural Resources, Transportation, Air Quality, Noise, Paleontological Resources, and Tribal Cultural Resources; and

WHEREAS, on December 21, 2023, DWR certified the Final EIR for the Delta Conveyance Project, adopted the MMRP to require DWR's implementation of the mitigation measures identified therein, adopted CEQA Findings of Fact pursuant to State CEQA Guidelines section 15091, adopted a Statement of Overriding Considerations relating to the Delta Conveyance Project's significant and unavoidable environmental impacts pursuant to State CEQA Guidelines section 15093, and approved the Delta Conveyance Project; and

WHEREAS, the Final EIR certified by DWR and related CEQA documents can be found on DWR's website, located at: https://www.deltaconveyanceproject.com/planning-processes/california-environmental-quality-act/final-eir/final-eir-document. A copy of these documents has also been retained in Valley Water files and has been made available to, and has been reviewed by, Valley Water's Board of Directors; and

WHEREAS, on January 6, 2021, Valley Water previously entered an Agreement for the Advance or Contribution of Money to DWR for preliminary planning and design costs related to a potential Delta Conveyance Project (the "Agreement"); and

WHEREAS, Valley Water seeks to advance additional funds pursuant to Section 5 of the Agreement to provide funding for Pre-Construction Work for Calendar Years 2026 and 2027 in an amount not to exceed $9,690,000; and

WHEREAS, Valley Water only seeks to provide funding for Pre-Construction Work (as defined above) and Valley Water is not approving or committing to the broader Delta Conveyance Project at this time; and

WHEREAS, Valley Water is a responsible agency for the Delta Conveyance Project under CEQA, and pursuant to State CEQA Guidelines section 15096, Valley Water hereby intends to adopt CEQA Findings of Fact under State CEQA Guidelines section 15091 and a Statement of Overriding Considerations under State CEQA Guidelines section 15093; and

WHEREAS, Valley Water has heard, been presented with, reviewed, and considered all of the information and data presented to it, including the certified EIR for the Delta Conveyance Project; DWR's findings relating to the Delta Conveyance Project under State CEQA Guidelines section 15091 and 15093; and all public comments; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE BE IT RESOLVED by the Board of Directors of the Santa Clara Valley Water District as follows:

SECTION 1. Incorporation of Recitals. The foregoing recitals are true and correct and are incorporated herein and made an operative part of this Resolution.

SECTION 2. Adequacy of the EIR under CEQA. Valley Water has independently reviewed and considered the certified EIR for the Delta Conveyance Project, DWR's record of proceedings, and Valley Water's record of proceedings, and Valley Water finds that the EIR adequately and properly analyzes the potential environmental impacts of the Delta Conveyance Project, including Pre-Construction Work that Valley Water seeks to fund.

Valley Water further hereby finds that none of the conditions set forth in State CEQA Guidelines section 15162 that could potentially trigger the need for a Subsequent EIR or Subsequent Negative Declaration apply to the Pre-Construction Work. The Pre-Construction Work does not entail or propose any substantial changes to the Delta Conveyance Project that will require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There have been no substantial changes that have occurred with respect to the circumstances under which the Pre-Construction Work, which was analyzed in the EIR, will be undertaken that will require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There has been no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, which shows that (1) the Pre-Construction Work will have one or more significant effects not discussed in the EIR; (2) significant effects previously examined will be substantially more severe than shown in the EIR; (3) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the Delta Conveyance Project or Pre-Construction Work; or (4) mitigation measures or alternatives which are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment. None of these conditions, as set forth in State CEQA Guidelines section 15162, apply here.

SECTION 3. Finding concerning Alternatives and Mitigation Measures. Valley Water, as a responsible agency under CEQA, is more limited than the lead agency (i.e., DWR) when considering alternatives and mitigation measures for the Delta Conveyance Project. A responsible agency has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of a project that the responsible agency decides to carry out, finance, or approve; moreover, a responsible agency is required to adopt a feasible alternative or feasible mitigation measures for a project only if (1) such alternative or mitigation measures are within the responsible agency's powers, and (2) the alternative or mitigation measures would substantially lessen or avoid any significant effect the project would have on the environment.

Here, Valley Water is not approving or committing to carrying out, financing, or approving the broader Delta Conveyance Project, nor does Valley Water have legal authority or powers to approve or carry out modifications or operations to the State Water Project or the Delta Conveyance Project. Instead, Valley Water seeks only to assist in the funding of the Pre-Construction Work, which entails data collection, research, and resource evaluation activities that precede any physical construction of the Delta Conveyance Project. Valley Water finds that the mitigation measures to be implemented by DWR, as set forth in the EIR and the MMRP adopted by DWR, mitigate and avoid the Pre-Construction Work's potential environmental impacts to the extent feasible. Valley Water finds there are no feasible alternatives or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the Pre-Construction Work would have on the environment beyond what was identified in the EIR and the MMRP.

SECTION 4. CEQA Findings of Fact under State CEQA Guidelines section 15091. Valley Water adopts DWR's CEQA Findings of Fact, a true and correct copy of which is attached hereto as Exhibit A and incorporated herein by reference, as to the Pre-Construction Work.

SECTION 5. Statement of Overriding Considerations. Valley Water finds that the Pre-Construction Work's economic, legal, social, technological, and other benefits outweigh, both individually and collectively, the Pre-Construction Work's potentially significant and unavoidable environmental effects. Pursuant to State CEQA Guidelines section 15093, Valley Water hereby adopts the Statement of Overriding Considerations attached hereto and incorporated by reference as Exhibit B.

SECTION 6. Approval of Funding for Planning and Pre-Construction Work. Valley Water authorizes the Chief Executive Officer to execute, pursuant to Section 5 of our 2021 Funding Agreement with DWR, a letter committing to advance additional funds in the amount of $9,690,000 to DWR for Valley Water's share of the planning and Pre-Construction Work costs for the Delta Conveyance Project for Calendar Years 2026-2027.

SECTION 7. Notice of Determination. Valley Water hereby directs staff to prepare, file, and cause to be posted a Notice of Determination (NOD) with the County Clerk or Clerk to the Board of Supervisors in the Counties of Alameda, Contra Costa, Sacramento, San Joaquin, Santa Clara, Solano, and Yolo within five (5) working days of the approval of the Resolution. A draft NOD is included as Exhibit C.

SECTION 8. Custodian of Documents. The custodian of documents constituting the record of proceedings for this matter is Valley Water's Clerk of the Board. The documents constituting the record of proceedings for this matter are located at 5750 Almaden Expressway, San Jose, California.

SECTION 9. Severability. If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

SECTION 10. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on January 14, 2025:

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

_____
TONY ESTREMERA
Chair, Board of Directors

ATTEST: MAXIMILLION OVERLAND, CMC

_____
Interim Clerk, Board of Directors

EXHIBIT A
COVERSHEET

DEPARTMENT OF WATER RESOURCES' CEQA FINDINGS OF FACT

No. of Pages: 120

Exhibit Attachments: None

DELTA CONVEYANCE PROJECT

CEQA FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS

Contents

Chapter 1
Introduction

Under the California Environmental Quality Act (CEQA), a state or local public agency decision maker, before approving a project for which an environmental impact report (EIR) was prepared, must make certain findings with respect to each significant impact identified in the EIR. (See Pub. Resources Code, § 21081, subd. (a); see also Cal. Code Regs., tit. 14, div. 6, ch. 3 ("CEQA Guidelines"), § 15091, subd. (a).) Such findings are one of the primary means by which California public agencies satisfy what the California Supreme Court has called the "substantive mandate" of CEQA, by which such agencies must substantially lessen or avoid the occurrence of significant environmental impacts to the extent feasible. (See *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 134; Pub. Resources Code, § 21002.)

With regard to each significant impact, the agency decisionmaker must make at least one of the following findings:

> (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR;
>
> (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
>
> (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

(CEQA Guidelines, § 15091, subd. (a)(1)-(3).)

Additionally, the findings required under CEQA must be supported by substantial evidence. (CEQA Guidelines, § 15091, subd. (b).)

A typical set of CEQA findings identifies all adopted or rejected mitigation measures for the various significant environmental impacts of a proposed project. The findings then go on to explain why various project alternatives identified in EIRs are either infeasible or unnecessary to meet the substantive mandate of CEQA.

A related CEQA requirement is the need for the agency decision maker to adopt a "statement of overriding considerations" before approving any project with environmental effects that cannot feasibly be mitigated to a less than significant level. (Pub. Resources Code, § 21081, subd. (b); CEQA Guidelines, § 15093.) This separate requirement is not a substitute for the adoption of CEQA findings, but is an additional procedural step required as part of the project approval process. A statement of overriding considerations must identify "the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of [the] proposed project [that] outweigh the [project's] unavoidable adverse environmental effects," thereby rendering them "acceptable" to the decision maker. (CEQA Guidelines, § 15093, subd. (a).)

The document at hand is intended to satisfy both of the above-described CEQA requirements with respect to the project commonly known as the Delta Conveyance Project (the Project). As the CEQA lead agency, the California Department of Water Resources (DWR) has completed the Final

Environmental Impact Report (Final EIR) for the Project. As the final decision maker for DWR, the Director of DWR (Director) has certified the EIR pursuant to CEQA Guidelines section 15090 and is now in a position to consider approval of the Project.[1]

Through this document, including its attachments, the Director hereby issues both the CEQA Findings of Fact (Findings) and the Statement of Overriding Considerations necessary for the Project. The Director does so after having received, reviewed, and considered not only the Final EIR, but also the previously issued Draft Environmental Impact Report (Draft EIR), as well as public and agency comments on those documents and all other information in DWR's record of proceedings.

The tables included in Exhibit A (CEQA Findings of Fact for the Project's Significant and Unavoidable Impacts, Impacts that are Less Than Significant after Mitigation and Impacts that are Less Than Significant/No Impact), contain findings that explain all of the mitigation measures proposed in the Final EIR (including the Compensatory Mitigation Plan for Special-Status Species and Aquatic Resources) have been adopted and incorporated into the enforceable Mitigation Monitoring and Reporting Program (MMRP) for the Project. (See Pub. Resources Code, § 21081.6, subds. (a)(1) and (b).) Likewise, the environmental commitments including best management practices (BMPs) set forth in Appendix 3B, *Environmental Commitments and Best Management Practices*, of the Final EIR have been incorporated into the MMRP.

As part of the narrative portion of these findings, the Director explains why the other project alternatives analyzed in the Final EIR are being rejected. Each specific finding is supported by substantial evidence in the record of proceedings.

The Statement of Overriding Considerations, found near the end of this document, then identifies the specific economic, legal, social, technological, and other benefits of the Project that, in the Director's view, outweigh the Project's significant and unavoidable environmental impacts. To the extent that these Findings do not set forth in detail all of the evidence in support of the conclusions reached, readers seeking additional information are directed to the Final EIR and supporting evidence in the record of proceedings, which is hereby incorporated by reference.

In addition to these CEQA Findings and the Statement of Overriding Considerations, Exhibit B to these CEQA Findings sets forth the Director's Public Trust Findings for the Project. The Public Trust Findings consider the Project's potential effect on the public trust and the state's affirmative duty to preserve, so far as consistent with the public interest, the resources and values protected by the trust. While the Public Trust Findings constitute separate findings from the CEQA Findings, the CEQA Findings and overall record of proceedings provide further evidentiary support for the conclusions reached in the Public Trust Findings.

[1] Subsequent actions by other responsible agencies, such as the California Department of Fish and Wildlife, will also be required before Project construction and/or operation may commence. Before DWR commences any project operations, DWR and responsible agencies will take future discretionary actions identified in the EIR, and such future actions will be subject to CEQA.

Chapter 2
Record of Proceedings

For purposes of CEQA and these Findings, the Record of Proceedings for the Project consists of the following documents, at a minimum:

- The Notice of Preparation and all other public notices issued by DWR in conjunction with the Project.
- The Final EIR for the Project and any documents cited therein.
- All comments submitted by agencies or members of the public during the public comment period on the Draft EIR.
- All comments and correspondence submitted to DWR with respect to the Project, in addition to timely comments on the Draft EIR, including responses to the Notice of Preparation.
- The Mitigation Monitoring and Reporting Plan for the Project.
- All reports, studies, memoranda, maps, staff reports, or other planning documents in DWR's files relating to the Project prepared by DWR staff, consultants to DWR, and responsible or trustee agencies with respect to DWR's compliance with the requirements of CEQA and with respect to DWR's actions on the Project.
- All documents submitted to DWR by other public agencies or members of the public with respect to compliance with CEQA or with respect to the Project.
- Any minutes and/or verbatim transcripts of all public meetings held by DWR in connection with the Project.
- Any documentary or other evidence submitted to DWR regarding the Project.
- Matters of common knowledge to DWR, including, but not limited to federal, State, and local laws and regulations;
- Any documents expressly cited in the Final EIR, these findings, or the statement of overriding considerations in addition to those cited above; and
- Any other materials required to be in the record of proceedings by Public Resources Code section 21167.6, subdivision (e).

The custodian of the documents comprising the record of proceedings: Marcus Yee, DWR, Program Manager III for the Project, 1516 9th Street, Sacramento, CA 95814. Many project-related documents that comprise the record of proceedings are also available on DWR's websites for the Project: https://www.deltaconveyanceproject.com and https://water.ca.gov/deltaconveyance.

The Director of DWR has relied directly or indirectly on all the documents listed above in reaching a decision on the Project. Many of the documents listed above were prepared by, or submitted to, DWR during preparation of the EIR for the Project. Other documents reflect prior planning or legislative decisions with which the Director was aware in approving the Project. For that reason, such documents form part of the underlying factual basis for the Director's decisions relating to approval of the Project. (See Pub. Resources Code, § 21167.6, subd. (e)(10); *Browning-Ferris Industries v. City Council of City of San Jose* (1986) 181 Cal.App.3d 852, 866; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 155.)

Chapter 3
Recirculation

Under section 15088.5 of the CEQA Guidelines, recirculation of an EIR is required when "significant new information" is added to the EIR after public notice is given of the availability of the draft EIR for public review but prior to certification of the final EIR. The term "information" can include changes in the project or environmental setting, as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation includes, for example, a disclosure showing that:

> (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
>
> (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
>
> (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.
>
> (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

(CEQA Guidelines, § 15088.5, subd. (a).)

Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. The above standard is "not intend[ed] to promote endless rounds of revision and recirculation of EIR's [sic]. Recirculation was intended to be an exception, rather than the general rule." (*Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1132.)

CEQA case law emphasizes that "'[t]he CEQA reporting process is not designed to freeze the ultimate proposal in the precise mold of the initial project; indeed, new and unforeseen insights may emerge during investigation, evoking revision of the original proposal.'" (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 736-737; see also *River Valley Preservation Project v. Metropolitan Transit Development Bd.* (1995) 37 Cal.App.4th 154, 168, fn. 11.) "'CEQA compels an interactive process of assessment of environmental impacts and responsive project modification which must be genuine. It must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project, with flexibility to respond to unforeseen insights that emerge from the process.' [Citation.] In short, a project must be open for public discussion and subject to agency modification during the CEQA process." (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 936.) Similarly, additional studies included in a final EIR that result in minor modifications or additions to analyses concerning significant impacts disclosed in a draft EIR do not constitute "significant new information" requiring recirculation of an EIR. (See *Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184, 220-221 [incorporation of technical studies in a final

EIR disclosing additional locations affected by a significant noise impact identified in the draft EIR did not require recirculation].)

DWR recognizes that the Final EIR incorporates information obtained and produced after the Draft EIR was completed, and that the Final EIR contains additions, clarifications, and modifications, including data and information to further support the information presented in the EIR. Due to the challenges in making a document with strikeouts ADA compliant and to improve the overall readability of the Final EIR, the Final EIR includes a final clean version of the EIR including the additions, clarifications, and modifications made to the Draft EIR. The Final EIR summarizes the key additions, clarifications, and modifications made by DWR in Volume 2, Chapter 1, *Introduction and Approach to Responses to Comments*. Furthermore, a track change version of the EIR is available to other agencies and the public upon request. DWR has reviewed and considered the Final EIR including all new information included therein. DWR finds that the new information added in the Final EIR either provides additional discussion and analysis not required by CEQA that was included for informational purposes or otherwise clarifies or makes minor changes to the adequate Draft EIR.

As explained further in Exhibit C to these CEQA Findings, none of the new information constitutes significant new information requiring recirculation of the Draft EIR under CEQA. The new information added to the EIR does not involve a new significant environmental impact, a substantial increase in the severity of a previously identified significant environmental impact, or a feasible mitigation measure or alternative that is considerably different from others previously analyzed that would clearly lessen one or more significant environmental impacts of the Project and that DWR declines to adopt.

DWR finds that the changes and modifications made to the EIR after the Draft EIR was circulated for public review and comment do not individually or collectively constitute significant new information within the meaning of Public Resources Code section 21092.1 or CEQA Guidelines section 15088.5. No information indicates that the Draft EIR was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the Draft EIR. Thus, recirculation of the EIR is not required.

Chapter 4
Subsequent Review

Prior to reaching decisions on the Project, responsible agencies must consider the environmental effects of the project as shown in the EIR and determine whether a subsequent or supplemental EIR is required pursuant to CEQA Guidelines sections 15162 or 15163. Furthermore, the EIR evaluates Project operations based on the Project design and what was known and reasonably foreseeable when the EIR was prepared, but DWR acknowledges that: (1) operations will not occur for well over 15 to 20 years due, in part, to the time required to complete construction of the project, and (2) new information of substantial importance or substantial changes could occur with respect to Project design or the circumstances under which the Project is undertaken. Under these conditions, prior to the commencement of operations, DWR would evaluate whether subsequent CEQA review is required before undertaking any discretionary actions that may be required to change Project design or operational criteria such that they are sufficiently protective to environmental resources.

Chapter 5
Project Background

On April 29, 2019, Governor Newsom signed Executive Order N-10-19 directing the California Natural Resources Agency, California Environmental Protection Agency, and California Department of Food and Agriculture to develop a comprehensive strategy to build a climate-resilient water system and ensure healthy waterways through the twenty-first century. After a public input period, Governor Newsom released the *California Water Resilience Portfolio* on July 28, 2020. The *California Water Resilience Portfolio* identified a suite of complementary actions to ensure safe and resilient water supplies, flood protection, and healthy waterways for the state's communities, economy, and environment. One of the projects identified in the portfolio is new diversion and conveyance facilities in the Sacramento–San Joaquin Delta (Delta) to safeguard the State Water Project (SWP).

In response to Governor Newsom's water policy objectives, DWR as the owner and operator of the SWP, proposed to design and construct two diversion facilities, each at 3,000 cfs capacity, on the Sacramento River; a single tunnel for conveyance; tunnel shafts; and a pumping plant and appurtenant facilities. As discussed further below, DWR's Notice of Preparation (NOP) for the Project EIR identified the proposed project as either the central or eastern alignment with pumping facilities in the south Delta near Clifton Court Forebay. These alternatives are identified as Alternatives 1 and 3 in the Draft EIR. After the process of identifying and screening alternatives evaluated in the Draft EIR (see Final EIR, Volume I, Appendix 3A, *Identification of Water Conveyance Alternatives*) and after an initial evaluation of the alternatives selected for detailed analysis in the Draft EIR, DWR selected a different alternative as the proposed project to analyze in the Draft EIR. Specifically, based on engineering feasibility, conceptual design, constructability, and potential to reduce key environmental impacts on cultural resources, important farmland, wetlands and other waters of the United States, wildlife habitat, transportation, air quality, noise, and Delta community effects, DWR selected the Bethany Reservoir alignment at 6,000 cfs conveyance capacity as the proposed project, which is identified as Alternative 5 in the EIR and referred to herein as the Project. Unlike Alternatives 1 and 3, the Project proposes to discharge water directly to the Bethany Reservoir along the California Aqueduct.

The primary purpose of the SWP is to convey water to local and regional water suppliers across California that, in turn, supply end users engaged in the beneficial uses of that water; it serves as the foundation for local water supplies. The SWP supplies water to 27 million people in northern California, the Bay Area, the San Joaquin Valley, the Central Coast, and southern California. SWP water also irrigates about 750,000 acres of farmland, mainly in the San Joaquin Valley (Final EIR, Volume 1, Chapter 2, *Purpose and Project Objectives*, p. 2-1). Other SWP functions include flood management, water quality maintenance, power generation, recreation, and fish and wildlife enhancement. The SWP was designed to deliver up to nearly 4.2 million acre-feet of water per year, depending on hydrologic conditions. The SWP has long-term contracts to supply water to 29 public water agencies that distribute it to farms, homes, and industry. During the 1999 to 2008 period, SWP deliveries averaged 2.86 MAF per year (California Department of Water Resources 2002, 2008a). But total SWP deliveries averaged about 1.96-million-acre feet (MAF) of water per year from 2009 to 2018 (California Department of Water Resources 2020:18). Of the contracted water supply, approximately 70% goes to municipal and industrial users and 30% to agricultural users (Santa Clara Valley Water 2022). Water supply depends on rainfall, snowpack, runoff, water in

storage facilities, and pumping capacity from the Delta, as well as operational limits for fish and wildlife protection, water quality, and environmental and legal restrictions. The infrastructure that enables the conveyance, or movement, of California's water supply is critical to the health of California's economy.

Factors such as the continuing subsidence of lands, risk of seismic activity and levee failures within the Delta, sea level rise, precipitation change, warmer temperatures, and wider variations in hydrologic conditions associated with climate change threaten the reliability of the current SWP water conveyance system. Additionally, as explained in Final EIR, Volume 1, Chapter 1, *Introduction*, Section 1.2.3.4, *Regulatory Environment*, pumping restrictions applied by regulatory agencies to address water quality and aquatic species concerns at the south Delta diversion continue to prevent the SWP from reliably capturing water when it is available, especially from storm events. Constraints on groundwater use imposed by the Sustainable Groundwater Management Act of 2014 could also increase the need for reliable SWP surface water supplies over time.

DWR's proposal of the Project is informed by past efforts undertaken to address the long-standing issues the SWP faces, including those undertaken through the CALFED Bay-Delta Program, the Delta Risk Management Strategy, and the Bay Delta Conservation Plan/California WaterFix planning process. The need for new Delta water conveyance infrastructure to help achieve the State's coequal goals of "providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem" (Pub. Resources Code § 29702(a)) was recognized by the legislature when it adopted the Sacramento–San Joaquin Delta Reform Act of 2009 (Water Code § 85000 et seq., discussed in Final EIR, Volume 1, Chapter 1, *Introduction*, Section 1.2.3.1, *California Water Supply*, and Section 1.2.4.4, *The Bay Delta Conservation Plan and California WaterFix*).

5.1 Project Objectives

DWR's fundamental purpose in proposing to develop new diversion and conveyance facilities in the Delta is to restore and protect the reliability of SWP water deliveries and, potentially, Central Valley Project (CVP) water deliveries south of the Delta, consistent with the State's Water Resilience Portfolio in a cost-effective manner.

The above stated purpose, in turn, gives rise to several related objectives of the Project, as follows:

- To help address anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events.
- To minimize the potential for public health and safety impacts from reduced quantity and quality of SWP water deliveries, and potentially CVP water deliveries, south of the Delta as a result of a major earthquake that could cause breaching of Delta levees and the inundation of brackish water into the areas where existing SWP and CVP pumping plants operate in the southern Delta.
- To protect the ability of the SWP, and potentially the CVP, to deliver water when hydrologic conditions result in the availability of sufficient amounts of water, consistent with the requirements of state and federal law, including the California and federal Endangered Species Acts (CESA and ESA, respectively) and Delta Reform Act, as well as the terms and conditions of water delivery contracts and other existing applicable agreements.

- To provide operational flexibility to improve aquatic conditions in the Delta and better manage risks of further regulatory constraints on project operations.

5.2 Project Description[2]

The Project involves the construction and future operation of new water intake facilities on the Sacramento River in the north Delta and a single main tunnel to divert and move water entering the north Delta from the Sacramento Valley watershed to existing SWP facilities in the south Delta, which would result in a dual conveyance system in the Delta. The water intake facilities would divert water through state-of-the-art fish screens. The proposed north Delta intakes would operate in conjunction with the existing SWP intakes in the south Delta. The proposed intakes would augment the ability to capture excess flows and improve the flexibility of the SWP operations such as for meeting the State Water Board Decision 1641 Delta salinity requirements. The north Delta intakes would be used to capture additional excess flows when the south Delta exports are limited and not able to capture those flows.

Under the Project, two intakes (Intakes B and C as defined in the EIR) would together convey up to 6,000 cfs of water from the north Delta along an eastern alignment to the launch shaft at Lower Roberts Island. From Lower Roberts Island, the single below ground tunnel would follow a route to a location south of Clifton Court Forebay and terminate at the Bethany Complex. A map and a schematic diagram depicting the conveyance facilities associated with the Project are provided in Final EIR, Volume 1, Mapbook 3-3 as well as Figures 3-2 (Bethany Reservoir Alignment) and 3-30. The Project would entail the continued use of the SWP south Delta export facilities as the primary diversion location. The sections below provide details on key features of the Project along with a summary of Project features.

5.2.1 Intake Structure and Fish Screens

Intakes B and C on the east bank of the Sacramento River would divert water and convey it through a single main tunnel. Intake B would be just north of Hood, and Intake C would be between Hood and Courtland (see Final EIR, Volume 1, Mapbook 3-3, Sheets 2 and 3). Intakes B and C would each divert up to 3,000 cfs under the Project. Operated in a coordinated manner with the existing facilities, the north Delta facilities would provide flexibility to alter the location, amount, timing, and duration of diversions to help manage water quality in the Delta or when excess flows occur after all other applicable Delta outflow requirements are met.

At each intake, water would flow through cylindrical tee fish screens mounted on the intake structure to a sedimentation basin before reaching the intake outlet (tunnel inlet) shaft at each site. The intake outlet shaft would serve as the tunnel boring machine reception or maintenance shaft during construction and as the intake shaft and maintenance access during operation. These shafts would have an inside diameter of 83 feet. From the intake outlet shaft, water would flow into a single-bore main tunnel that connects the intakes to the Twin Cities Complex, from which the tunnel route would extend south on the Bethany Reservoir alignment.

[2] This information is derived from Chapter 3, *Description of the Proposed Project and Alternatives,* of the Final EIR and outlines key features of the Project. For more information on the Project components, see Chapter 3 of the Final EIR.

Intake features would include state-of-the-art cylindrical tee fish screens, intake structures, sedimentation basins, sediment drying lagoons, and flow control structures. Intakes would also include associated facilities to support construction and operation of the intakes. Fish screens installed on intake structures minimize aquatic species from being carried into the intake facilities along with the diverted water. The intake screens are designed to draw in water at reduced velocities to reduce potential effects to the subset of fish exposed to the intake screens.

The intake fish screens are part of an overall intake system that includes the screen units and an integrated screen cleaning system, piping, and flow control features. The "tee-shaped" screen units would consist of two fish screen cylinders installed on either side of a center manifold that would be connected to the facility's intake opening. Each intake fish screen would extend about 12 feet from the vertical face of the intake structure into the river. During diversion operations, water would flow from the Sacramento River through the fish screens and a 60-inch diameter pipe and discharge into the sedimentation basins. Control gates would regulate the flow through each screen unit to the sedimentation basin.

5.2.2 Construction of Intake Structures

Installing the intake facility would require construction of a temporary cofferdam for in-river portions of intake construction to divert water and aquatic organisms around the work site and create a dry work area. Portions of the cofferdam would consist of interlocking steel sheet piles installed using vibratory pile driving or, if necessary, a combination of vibratory and impact pile driving. Vibratory pile driving is a method by which the pile is vibrated into the soil beneath the site as opposed to being hammered in, as occurs in impact pile driving. Noise associated with the vibratory pile driving is considerably lower than noise associated with impact hammer pile driving. To minimize noise and other disturbances from pile driving, vibratory pile driving would be used to the extent possible where supported by additional geotechnical information, thus eliminating or minimizing impact pile driving. All pile driving would be restricted to the daytime hours between 7:00 a.m. and 7:00 p.m. and would not occur at night. It is estimated that the longest installation period (at Intake C) would be no more than 255 hours over a 5- or 6- week period, including time for handling and preliminary vibratory pile driving. Assuming 2 minutes of driving time for each sheet pile pair, impact drive time (as a subset of the total installation period) would be a cumulative total of 14 hours at Intake C with 3,000-cfs capacity, occurring over roughly 5 or 6 weeks. Each intake sheet pile construction period would be staggered by about 1 year (Delta Conveyance Design and Construction Authority 2022).

5.2.3 Sedimentation Basins and Drying Lagoons

Diverted water would contain sediment suspended in the river water, a portion of which would be collected in a concrete-lined sedimentation basin. A deep soil-cement-bentonite perimeter wall (cutoff wall) would serve to isolate the sediment basins from the local groundwater and the Sacramento River. Each intake would have one sedimentation basin divided into two cells by a turbidity curtain. Water would flow from the intake through the sedimentation basin and through a flow control structure with radial gates into the outlet channel and shaft structure that would be connected to the tunnel system.

The screen and intake design would allow sufficient flow velocities in diversion pipes to sweep sediment into the sedimentation basin and prevent it from settling in the piping system. Once the diverted water enters the sedimentation basins, larger sand and silt sediment particles would settle

while smaller silt and clay particles would be carried into the tunnel. A flow control structure with four large radial gates and one smaller gate would control the water level in the sedimentation basin and discharge flow into the intake outlet channel and outlet shaft. Tunnel and aqueduct velocity would be sufficient to transport these smaller particles to Bethany Reservoir.

Each intake would have four concrete-lined sediment drying lagoons, each approximately 15 feet deep, containing an average of 10 to 12 feet of water within its embankments when in use. Once a year, during the summer months, the sedimentation basin would be dredged, one half at a time, and sediment slurry discharged to drying lagoons, dewatered, and allowed to dry naturally. The sediment is anticipated to be composed of large silt and sand particles with minimal organic material. During dredging operations, sediment is expected to accumulate to a depth of about 1 foot, distributed over the floor of the drying lagoons. Water drained from the sediment drying lagoon outlet structures and underdrains would be pumped back into the sedimentation basin. The sediment remaining would be dried for 2 to 6 days, which would reduce its moisture content to a point at which the sediment can be removed and transported without creating dust. If sediment is dried to a level that would create dust, the dust would be controlled by application of water from on-site supplies. The dried sediment would be removed by truck for disposal at a permitted disposal site or used for beneficial uses off-site. The fill and drain/dry sequence would take about 7 to 8 days, which would approximately match the dredged material filling rate so continuous operation would be possible. On average, each drying lagoon would fill about once every 4 to 8 days and contain up to about 1,800 cubic yards of sediment. The volume of sediment collected would depend upon the volume, suspended sediment concentration, and flow rate of water diverted at the intake. Intake maintenance activities are described in Final EIR, Volume 1, Chapter 3, *Description of the Proposed Project and Alternatives,* Section 3.16.5, *Intake Maintenance Activities*.

5.2.4 Bethany Complex and Other facilities

The Project would use Intakes B and C to convey up to 6,000 cfs of water from the north Delta along an eastern alignment to the launch shaft at Lower Roberts Island. From Lower Roberts Island, the tunnel would follow a route to a location south of Clifton Court Forebay and terminate at the Bethany Complex. The Bethany Complex would include a pumping plant, a surge basin with reception shaft, a buried pipeline aqueduct system, and a discharge structure to convey water to Bethany Reservoir. The Bethany Complex would be constructed southeast of Clifton Court Forebay. The Bethany Complex includes the Bethany Reservoir Pumping Plant which would be needed to lift the water from the tunnel to Bethany Reservoir. The main tunnel from the intakes would terminate at a reception shaft within the surge basin on the north side of the Bethany Reservoir Pumping Plant. Water would enter the Bethany Reservoir Pumping Plant and be conveyed directly to Bethany Reservoir in an aqueduct system. The Bethany Reservoir Pumping Plant would include the Bethany Reservoir Surge Basin which would remain empty while the Bethany Reservoir Pumping Plant is operating. The Bethany Reservoir Aqueduct system would consist of four 15-foot-diameter parallel pipelines that would convey water from the Bethany Reservoir Pumping Plant to the Bethany Reservoir Discharge Structure, a distance of approximately 2.5 miles each. Two separate aqueduct reaches would require tunnels to carry each pipeline under existing features. The first reach would be under the Jones Pumping Plant discharge pipelines (about halfway from the Bethany Reservoir Pumping Plant to the discharge structure); at this location pipelines would run about 50 feet below ground surface for about 200 feet. Tunnels would also be needed under the existing conservation easement adjacent to Bethany Reservoir (at the last downstream reach of the aqueduct) for about 3,064 feet, ranging from 45 to 180 feet below ground surface. The aqueduct pipelines would

terminate near the bottom of four 55-foot-inside-diameter below ground vertical shafts at the Bethany Reservoir Discharge Structure. The pipelines would make a 90-degree bend upward inside the shafts, ending at the floor of the discharge structure and flowing through a concrete channel into Bethany Reservoir. Finally, the discharge structure portion of the Bethany Complex called the Bethany Reservoir Discharge Structure located near the bank of Bethany Reservoir includes the aqueduct conservation easement tunnel vertical exit shafts, contractor staging areas, and ancillary facilities. The proposed discharge structure site would be on a narrow strip of land between the conservation easement and Bethany Reservoir.

Table 1. Summary of Project Features

Characteristic	Description [a]
Alignment	Bethany Reservoir
Conveyance capacity	6,000 cubic feet per second
Number of Intakes	2; Intakes B and C at 3,000 cfs each
Tunnel from Intakes to Bethany Reservoir Pumping Plant	
Diameter	36 feet inside, 39 feet outside
Length	45 miles
Number of tunnel shafts	11 [b]
Launch shafts diameter	115 feet inside
Reception and maintenance shafts diameter	70 feet inside
Surge Basin reception shaft diameter	120 feet inside
Twin Cities Complex	Construction acres: 586 Permanent acres: 222
New Hope Tract Maintenance Shaft	Construction acres: 11 Permanent acres: 11
Canal Ranch Tract Maintenance Shaft	Construction acres: 11 Permanent acres: 11
Terminous Tract Reception Shaft	Construction acres: 13 Permanent acres: 13
King Island Maintenance Shaft	Construction acres: 12 Permanent acres: 12
Lower Roberts Island Double Launch Shaft site	Construction acres: 610 Permanent acres: 300
Upper Jones Tract Maintenance Shaft	Construction acres: 11 Permanent acres: 11
Union Island Maintenance Shaft	Construction acres: 14 Permanent acres: 14
Bethany Complex	
Bethany Reservoir Pumping Plant and Surge Basin site size (all facilities)	Construction acres: 213 Permanent acres: 184
Bethany Reservoir Pumping Plant pad site	1,166 foot wide x 1,260 feet long (approximately 34 acres)
Surge basin	815 feet wide x 815 feet long x 35 feet deep, approximately 15 acres

Characteristic	Description [a]
Bethany Reservoir Aqueduct	Four 15-foot-diameter parallel below-ground pipelines Approximately 14,900 linear feet each Construction acres: 128 acres Permanent acres: 68
Aqueduct tunnels	Four 20-foot-diameter parallel tunnels, two reaches
Bethany Reservoir Discharge Structure	Construction acres: 15 Permanent acres: 13
RTM Volumes and Storage	
Twin Cities Complex long-term RTM storage (approximate)	214 acres x 15 feet high
Lower Roberts Island long-term RTM storage (approximate)	189 acres x 15 feet high
Bethany Complex	No TBM RTM generated or stored
Total wet excavated RTM volume (for single main tunnel from intakes to Bethany Reservoir Surge Basin shaft)	14.4 million cubic yards

cfs = cubic feet per second; RTM = reusable tunnel material; TBM = tunnel boring machine. The height of the RTM storage stockpiles would decrease as the RTM subsides into the ground over time.

[a] Acreage estimates represent the permanent surface footprints of selected facilities. Overall Project acreage includes some facilities not listed, such as permanent access roads.

[b] Number of shafts for the main tunnel from intakes to Bethany Reservoir Surge Basin shaft, counting the double shaft at Twin Cities Complex and the double shaft at Lower Roberts Island each as one shaft.

5.2.5 Water Conveyance Operational Components

The proposed north Delta intakes would operate in conjunction with the existing SWP. Operations of the existing SWP facilities, and in coordination with CVP operations pursuant to the Coordinated Operations Agreement, will be governed by the applicable regulatory requirements specified under the State Water Board Water Quality Control Plan for the San Francisco Bay/Sacramento–San Joaquin Delta Estuary (Bay-Delta Plan) and assigned to the SWP in the applicable water right decision, applicable biological opinions under ESA, applicable incidental take permit under CESA, and U.S. Army Corps of Engineers (USACE) Clifton Court diversion limits. The operations of the proposed north Delta intakes would remain consistent with these existing regulatory requirements. The Project is seeking a new point of diversion be added to DWR's existing water rights, and is not seeking to expand water right quantity. In addition, diversions at the proposed north Delta intakes would be governed by new operational criteria specific to these intakes, such as the fish screen approach velocity requirements, bypass flow requirements, and pulse protection. These new criteria provide additional protections to the fish species over and above the protections from the state-of-the-art positive barrier fish screens included at the proposed intakes. A detailed table describing the proposed operational criteria is provided in Final EIR, Volume 1, Chapter 3, *Description of the Proposed Project and Alternatives,* Table 3-14. Additional detail for the proposed north Delta intakes is provided in Final EIR, Volume 1, Table 3-15 in Section 3.16.7, *Delta Conveyance Project Preliminary Proposed Operations Criteria*. Also, in Final EIR, Volume 1, Section 3.16.7, Figure 3-37 provides a visual depiction of maximum allowable diversions in winter/spring and expected diversions in summer/fall. Final EIR, Volume 1, Figure 3-38 provides a depiction of the north Delta diversion operations concepts to minimize potential effects to aquatic species.

5.2.6 Adaptive Management and Monitoring

Adaptive management for the Project, as required by the Delta Reform Act and described in Appendix 1B of the Delta Plan, would encompass three major phases: planning, implementation, and evaluation and response (Delta Stewardship Council 2015; Cal. Code Regs., title 23, § 5002(b)(4)). The adaptive management plans and programs would document all activities associated with the planning phase of adaptive management and describe the process to be followed during the implementation and evaluation and response phases. Project objectives were taken into consideration in identifying where adaptive management would be most effective and applicable for the project. As appropriate, mitigation measures identified in the Final EIR, such as implementation of the habitat creation and restoration actions in the Compensatory Mitigation Plan (CMP), would integrate the concept of adaptive management in mitigation plan design, stand-alone site and/or resources-specific adaptive management plans would be adopted if the project is approved. In addition, an Operations Adaptive Management and Monitoring Program would be used to monitor and consider the design and operation of the new north Delta intakes and determine whether they result in unanticipated effects that may warrant refinements in design, management, and/or operation. For more information see Final EIR, Volume 1, Chapter 3, *Description of the Proposed Project and Alternatives,* Section 3.18, *Adaptive Management and Monitoring Program*.

5.3 Environmental Review Process

5.3.1 Alternatives Development and Screening Process

The 2020 NOP identified the proposed project as a 6,000 cfs diversion capacity alternative, to be located on either a central or eastern alignment from intakes in the north Delta to pumping facilities in the south Delta near Clifton Court Forebay. The EIR analyses were initiated with this concept of the proposed project, and with the knowledge that additional engineering refinements, preliminary findings about key environmental impacts, and input from the public and other interested parties may result in future changes. As the development of the EIR progressed, the evaluation provided additional information about the environmental impacts associated with the project alternatives. The preliminary impact assessment found that the Bethany Reservoir alignment had the potential to reduce environmental effects as compared to other project alternatives (see Section 7.3, *Summary Comparison,* for a discussion and comparison of project alternatives). As a result, DWR identified the Bethany Reservoir alignment (Alternative 5) as the proposed project in the EIR.

DWR began the alternatives development process by revisiting the scoping comments received on the Bay Delta Conservation Plan (BDCP) and California WaterFix, as described in Final EIR, Volume 1, Chapter 1, *Introduction*. During the 2009 BDCP EIR/EIS scoping process, 1,051 comments were received related to the development of alternatives. After publishing the Draft BDCP EIR/EIS, based on the Habitat Conservation Plan/Natural Community Conservation Plan approach in December 2013, and after reviewing critical public and fish and wildlife agency comments on that document, the lead agencies introduced a new proposed action called the California WaterFix in a Partially Recirculated Draft EIR/Supplemental Draft EIS in July 2015.

While the BDCP and then California WaterFix had different project objectives, some of these alternative comments or suggestions were applicable to the Delta Conveyance Project. The 2020 Delta Conveyance Project NOP described a new proposed single-tunnel project and solicited

additional suggestions about potential alternatives during the public scoping period. This involved input from a large group of interested parties, an extensive evaluation of various options, and analysis of the environmental impacts that goes beyond the normal scope of a CEQA review. These processes were helpful in informing the public and gathering input on a project that would affect a very complex estuary and a statewide water supply system.

The Project underwent a public scoping period of 93 days from January 15 to April 17, 2020, where DWR received public comments from 2,000 individuals, organizations, and agencies on the scope of issues to be considered in the Draft EIR. Eight scoping meetings, which hosted a total of more than 700 attendees, were held throughout the state to provide information on the project and gather comments. The scoping period was originally scheduled for a period of 65 days ending on March 20, 2020, but was extended for an additional 28 days per the request of interested parties to allow for additional time to review project information, and to accommodate unprecedented circumstances related to the coronavirus disease 2019 (COVID-19) pandemic. During this period, the public was invited to participate in the earliest phase of the environmental review process and DWR accepted public comments on the proposed project as defined in the NOP. For more detailed information about the scoping process and relevant outreach efforts, please see Final EIR, Volume 1, Appendix 1A, *Scoping Summary Report*.

Following the 2020 NOP and consideration of scoping comments, DWR screened a range of alternatives and began evaluating potential impacts from constructing, operating, and maintaining conveyance facility alternatives. Contemporaneously, the engineering team continued to refine potential facility designs, construction approaches, and project operations to optimize the conveyance facility approach and evaluate options to further reduce environmental effects.

The screening process for the Delta Conveyance Project EIR focused on identifying alternatives to the proposed project, as defined in the NOP, and these alternatives were screened with the purpose and objectives of the proposed project in mind. The proposed project identified in the NOP and developed to specifically meet the stated project objectives, Dual Conveyance Central Tunnel Alignment or Dual Conveyance Eastern Tunnel Alignment, with a maximum 6,000 cfs capacity, was the basis against which alternatives were screened. The screening criteria were developed consistent with the legal requirements of CEQA and the project objectives included in the NOP published on January 15, 2020.

The alternatives were grouped into four categories of dual conveyance, isolated conveyance, through-Delta conveyance with proposed diversion facility, and through-Delta conveyance with no new diversion facilities. A fifth "other" category encompassed alternatives proposing other technologies, including capping the California Aqueduct, use of an aboveground "tube" to convey water, and desalination on barges in Monterey Bay. Not including the NOP identified alternatives (Dual Conveyance Central Tunnel Alignment with 6,000-cfs 35 capacity and Dual Conveyance Eastern Tunnel Alignment with 6,000-cfs capacity), a total of 21 alternatives were generated at this stage. In some cases, multiple similar proposals were combined and evaluated as one. Each of the screened alternatives is described in Final EIR, Volume 1, Appendix 3A, *Identification of Water Conveyance Alternatives*.

The 21 potential alternatives to the proposed project were screened through a two-level filtering process. Filter 1 assessed whether a proposed alternative could meet the project purpose and most of the project objectives. Alternatives that met two or more of the following four Filter 1 criteria summarizing the four project objectives were carried forward for screening under Filter 2. Final EIR,

Volume 1, Appendix 3A, Identification of Water Conveyance Alternatives, describes the following Filter 1 criteria in more detail.

- **Climate resiliency.** Addresses anticipated sea level rise and other reasonably foreseeable consequences of climate change and extreme weather events.
- **Seismic resiliency.** Minimizes health and safety risk to public from earthquake-caused reductions in water delivery quality and quantity from the SWP.
- **Water supply reliability.** Restores and protects the ability of the SWP to deliver water in compliance with regulatory limits and SWP contractual agreements.
- **Operational resiliency.** Provides operational flexibility to improve aquatic conditions and manage future regulatory constraints.

Filter 2 examined whether the remaining alternatives would avoid or lessen potential significant environmental impacts compared to the proposed project options identified in the NOP.

Of the 21 potential alternatives to the proposed project (identified in the NOP as Alternatives 1 and 3) that were evaluated as part of the screening process, 11 alternatives or groups were eliminated in Filter 1 (Final EIR, Volume 1, Appendix 3A, *Identification of Water Conveyance Alternatives*, Table 3A-2). The remaining alternatives were screened through Filter 2 to evaluate whether they had the potential to lessen environmental impacts compared to the two project options (Alternatives 1 and 3) identified in the NOP (Final EIR, Volume 1, Appendix 3A, *Identification of Water Conveyance Alternatives*, Table 3A-3). Only the Dual Conveyance Bethany Alignment alternative passed Filter 2 screening for its potential to avoid or reduce impacts compared to the proposed project identified in the NOP (Alternatives 1 and 3). To evaluate the potential for modifications to the capacity of the project options identified in the NOP to potentially avoid or reduce impacts, alternatives with capacities of 3,000 cfs (Alternatives 2b and 4b), 4,500 cfs (Alternatives 2c and 4c), and 7,500 cfs (Alternatives 2a and 4a) were also carried forward for analysis in the EIR. As a result, including the No Project alternative, the EIR evaluates ten proposed alternatives to the Project.

5.3.2 Release of, and Comments on, the Draft EIR

The Draft EIR for the Project was released for public review and comment on July 27, 2022. The public comment period for the Draft EIR was originally set for 92 days and scheduled to close on October 27, 2022. In response to requests from multiple commenters, DWR granted a 50-day extension to the public comment period, which closed at 5:00 p.m. Pacific Standard Time on December 16, 2022. The extension allowed a public comment period totaling 142 days.

DWR conducted three public hearings on September 13, September 22, and September 28, 2022, during different times of the day, during which DWR accepted verbal comments on the Draft EIR. In addition, DWR held two Tribal representatives meetings, on October 12 and December 7, 2022, for Tribal leadership, Tribal government representatives, and Tribal communities to provide verbal comments on the Draft EIR.

DWR received approximately 675 unique letters and communications from federal, state, and local/regional agencies; California Native American Tribal governments; elected officials; nongovernmental organizations; and members of the public. After reviewing letters and communications, DWR identified approximately 7,356 discrete comments.

The comments covered a broad range of environmental concerns and other issues. Major topic areas that elicited frequent comments included but were not limited to: the CEQA process, mitigation measures, and other project requirements; engagement with interested parties and the public outreach process; alternatives development, range and description, including alternative operations; implementation considerations; surface water quality and groundwater methodologies and impacts; fish and aquatic resources methodology and impacts; terrestrial biological resources methodology and impacts; Tribal cultural resources impacts; and air quality methodology and impacts.

5.3.3 Preparation of the Final EIR

To ensure time for comment letters sent by mail, DWR treated all comment letters received before January 1, 2023, as timely. As such, all comments received prior to January 1, 2023, are responded to in Final EIR, Volume 2. Any comments received on or after January 1, 2023, were considered late letters. While late letters have been reviewed and considered by DWR, DWR did not include late letters, or responses thereto, in the Final EIR. The responses to comments provided in Final EIR, Volume 2, represent DWR's best effort to review, consider, and address all timely comments on the Draft EIR and any supporting information provided by commenters.

Agency consultation and coordination activities, including Tribal consultation, continued during preparation of the Final EIR for the Project. DWR also continued to proactively engage interested agencies and the public throughout the CEQA processes including preparing informative websites and social media updates.

Chapter 6
Project Specific Findings on the Delta Conveyance Project Environmental Impacts

Within each of the resource area chapters, the Final EIR lays out the significant environmental impacts of the Project. Each such environmental impact has its ultimate CEQA determination, that is, whether it would be less than significant, could be mitigated to a less than significant level through the implementation of proposed mitigation, or significant and unavoidable. Attached to this document as Exhibit A are three Findings Tables. Table 1 identifies significant and unavoidable impacts, Table 2 identifies significant impacts that can be rendered less than significant with mitigation, and Table 3 identifies impacts that are less than significant or no impact before mitigation. Within the tables, the verb "substantially lessen" is understood to mean "mitigate, but not to a less than significant level," while the verb "avoid" is understood to mean "mitigated to a less than significant level." These tables do not attempt to describe the full analysis of each environmental impact contained in the Final EIR. Rather, such full analysis can be found within the Final EIR, which, as noted earlier, is incorporated by reference herein. In making these findings, the Director of DWR ratifies, adopts, and incorporates into these findings the analysis and explanation in the Final EIR, and ratifies, adopts, and incorporates in these findings the determinations and conclusions of those documents relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by Exhibit A to these Findings.

As noted above, all of the mitigation measures proposed in the Final EIR have been adopted and incorporated into the enforceable MMRP for the Project. (See Pub. Resources Code, § 21081.6, subds. (a)(1) and (b).) So too have both the generic and project-specific environmental commitments, and BMPs set forth in Final EIR, Volume 1, Appendix 3B, *Environmental Commitments and Best Management Practices*. No mitigation measures identified in the Final EIR have been rejected as infeasible as is permitted under CEQA Guidelines section 15091, subdivisions (a)(3) and (c).

6.1 Potentially Significant and Unavoidable Impacts

Mitigation measures are identified for most of the significant and unavoidable impacts, but the measures are not sufficient to reduce the impacts to less than significant levels. For one significant and unavoidable impact (Impact PALEO-2), there is no feasible mitigation available at all.

Other potential impacts are considered to be significant and unavoidable even though full implementation of recommended mitigation measures by other agencies or in cooperation with DWR would reduce the impacts to less than significant levels. This conservative characterization reflects the fact that several of these mitigation measures cannot be implemented by DWR by itself, but will be dependent on the reasonable cooperation of other agencies or entities. As explained in the Final EIR, if such cooperation is forthcoming, and DWR can work successfully with the other agencies or entities in question (e.g., by reaching written agreements where necessary), the impacts will ultimately be less than significant. But DWR has conservatively concluded in the EIR that these impacts will be significant and unavoidable.

Within Exhibit A to this document, Table 1 includes (1) all potentially significant and unavoidable impacts associated with the Project, (2) adopted feasible mitigation measures or environmental commitments, if available, intended to reduce the severity of such impacts, (3) characterization of significance of the impact after the adoption of appropriate mitigation measures or environmental commitments, if any, and (4) explanations of the nature of the impacts and the effectiveness of mitigation measures or environmental commitments.

Even though the impacts in Table 1 will remain significant and unavoidable, DWR has determined to approve the Project because the Project's benefits outweigh its significant unavoidable environmental impacts. CEQA provides that, where a proposed project would cause significant environmental impacts that cannot be avoided or substantially lessened, a public agency's decision maker, after adopting proper findings, may nevertheless approve the project if the decision maker first adopts a statement of overriding considerations. This latter document must set forth the specific reasons why the agency decision maker finds the project's benefits outweigh its significant unavoidable environmental impacts. The statement of overriding considerations for the Project is included in these Findings in Chapter 8, *Statement of Overriding Considerations*, below.

6.2 Potentially Significant Impacts Reduced to Less than Significant

As noted above, Table 2 within Exhibit A identifies significant impacts that can be reduced to less than significant levels through the adoption and implementation of feasible mitigation measures or environmental commitments. Table 2 includes: (1) all potentially significant impacts associated with the Project, (2) adopted mitigation measures or environmental commitments that DWR finds would avoid or substantially lessen such significant environmental impacts, (3) characterization of less than significance of the impact after the adoption of mitigation measures or environmental commitments, and (4) explanations of the nature of the impacts and the effectiveness of mitigation measures or environmental commitments.

6.3 Impacts that are Less than Significant or No Impact

Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, § 21002; CEQA Guidelines, §§ 15126.4, subd. (a)(3), 15091.) Based on substantial evidence in the whole record of this proceeding, DWR finds that implementation of the Project will not result in any significant impacts to the impact areas identified in Table 3 within Exhibit A and that these impact areas, therefore, do not require mitigation. In some instances, the Project would have no impact in a particular area; these instances are noted in the table.

Chapter 7

Findings Regarding Alternatives to the Project

7.1 Basis for Alternatives-Feasibility Analysis

California Public Resources Code section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" Where a lead agency has determined that, even after the adoption of all feasible mitigation measures, a project as proposed will still cause one or more significant environmental effects that cannot be substantially lessened or avoided, the agency, prior to approving the project as mitigated, must first determine whether, with respect to such impacts, there remain any project alternatives that are both (1) environmentally superior with respect to such significant, unavoidable effects and (2) feasible within the meaning of CEQA.

Under CEQA Guidelines section 15126.6, the alternatives to be discussed in detail in an EIR should be able to "feasibly attain most of the basic objectives of the project." (See also *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1165-1166 ["[i]n the CALFED program, feasibility is strongly linked to achievement of each of the primary program objectives [¶] … [¶] a lead agency may structure its EIR alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannot achieve that basic goal"].) For this reason, the project objectives described earlier in these Findings provided part of the policy framework by which DWR developed the alternatives analyzed in the EIR. In analyzing such alternatives in detail in the EIR, DWR took these objectives into account, while at the same time focusing on means of substantially lessening or avoiding significant environmental effects as required under CEQA.

The approach taken by DWR is consistent with the approach taken for other water conveyance projects in California as illustrated in the decision by the Second Appellate District in *California Water Impact Network v. City of San Buenaventura* (Jan. 4, 2023, Cal. Ct. App., B315362 [nonpub. opn.]) (CWIN). In CWIN, the City of Buenaventura (City) proposed and prepared an EIR for a seven-mile-long pipeline project to receive its contractual right to water from the SWP. (*Id.* at p. *1.) At the same time that the City was pursuing the pipeline project to connect to the SWP, the City was also pursuing and preparing an EIR for a separate project to increase local water sources including wastewater and groundwater treatment. (*Ibid.*) The purpose of the local water project was to increase the City's overall water supply. (*Ibid.*)

Petitioner argued the City piecemealed environmental review by preparing a separate EIR for the local water supply project and/or that the pipeline project had to include alternatives evaluating local water supply options. (*CWIN, supra*, at pp. *2, *4.) The court rejected both arguments. First, as to the piecemealing claim, the court acknowledged that both the pipeline project and the proposed local water supply project concerned the City's water supply. (*Id.* at p. *3.) However, the court held that the projects had independent utility because the projects involved "different source[s] of water, different infrastructure, and neither project [was] dependent on the completion of the other." (*Ibid.*) Second, the court concluded that the pipeline project EIR did not require local water supply

alternatives because a basic goal of the project was to "bring SWP water to the City… [and] [l]ocal water supply cannot meet the basic goal of bringing SWP water to the City." (*Id.* at p. *4.)

Of relevance to the Delta Conveyance Project, the petitioner in *CWIN* alleged that the project objectives were too narrow because one objective was to receive the City's SWP entitlements, which made "dependence on SWP water a fait accompli." (See *CWIN*, supra, at p. *3.) Petitioner asserted that the project objectives should have been drafted to more generally address the City's water supply and water quality needs and a narrow objective to receive SWP entitlements was improper. (*Ibid.*) The court rejected the petitioner's argument. Citing *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 14, the court held that "CEQA does not restrict an agency's discretion to identify and pursue a particular project designed to meet a particular set of objectives. [Citation.] Thus, the City's stated objectives are valid even if it means dependence on the SWP is a fait accompli." (*CWIN*, supra, at p. *3.)

Similar to the City's objective in *CWIN* to pursue a project to receive SWP water, DWR is pursuing a project to restore and protect the reliability of SWP water deliveries. This fundamental purpose of the Project necessarily cannot be achieved by pursuing local water supply projects in other areas of the State or by projects that otherwise do not address the existing threats to SWP's reliability (e.g., sea level rise, seismicity, climate change and associated changes in weather patterns, and regulatory constraints). Therefore, the EIR properly focuses on evaluating project alternatives that would, to the extent potentially feasible, restore or protect the reliability of SWP water deliveries in consideration of these existing threats. (See *Yerba Buena Neighborhood Consortium, LLC v. Regents of the University of California* (2023) 95 Cal.App.5th 779, 712-717 [holding that CEQA did not require the Regents to consider an offsite alternative for a new hospital that "would not adequately meet the project's objectives"].)

While the EIR considers project alternatives unrelated to restoring or protecting the reliability of SWP water deliveries, as addressed in Final EIR, Volume 1, Appendix 3A, *Identification of Water Conveyance Alternatives*, DWR rejected those alternatives as part of the EIR's alternative screening process because they did not meet most of the basic project objectives. Based on the extensive alternatives screening process set forth in Final EIR, Volume 1, Appendix 3A, *Identification of Water Conveyance Alternatives*, DWR developed, and addressed in detail, nine (9) alternatives and a No Project Alternative.

Although an EIR must evaluate a reasonable range of *potentially* feasible alternatives, the lead agency decision maker ultimately determines whether such alternatives are *actually* feasible. (See *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 981, 999 *(CNPS).)* "Feasible" is defined in CEQA as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." (Pub. Resources Code, § 21061.1; see CEQA Guidelines, § 15364 [adding "legal" factors].) As courts have noted, "[t]he 'feasibility of … alternatives must be evaluated within the context of the proposed project.'" (E.g., *Sustainability, Parks, Recycling & Wildlife Legal Def. Fund v. San Francisco Bay Conservation & Development Com.* (2014) 226 Cal.App.4th 905, 918 [omission in original].)

The determination of whether an alternative is actually feasible may be based on several grounds. One ground by which decision makers may reject an alternative as infeasible is that the alternative is inconsistent with project objectives or does not fully meet such objectives. (In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings (2008) 43 Cal.4th 1143, 1165-1166; *see also CNPS, supra,* 177 Cal.App.4th *at p. 1001 ["[*A]n alternative 'may be found infeasible on

the ground it is inconsistent with the project objectives as long as the finding is supported by substantial evidence in the record.'"]; *Save Panoche Valley v. San Benito County* (2013) 217 Cal.App.4th 503, 521-523; *Citizens for Open Government v. City of Lodi* (2012) 205 Cal.App.4th 296, 314-315.) Similarly, a decision maker may reject an alternative as infeasible if the decision maker concludes, after a "reasonable balancing of the relevant economic, environmental, social, and technological factors," that the alternative is undesirable from a policy standpoint. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401, 417 (*City of Del Mar*); see also *Ctr. for Biological Diversity v. California Dep't of Conservation* (2019) 36 Cal.App.5th 210, 242; *CNPS, supra,* 177 Cal.App.4th at p. 1001; *San Diego Citizenry Group, supra,* 219 Cal.App.4th at pp. 17-18.) Thus, under these principles, even if a project alternative would avoid or substantially lessen any or all of the unavoidable significant environmental effects of a proposed project as mitigated, the decision makers may nevertheless reject the alternative for such reasons.

7.2 Alternatives Addressed in the EIR

The nine (9) alternatives analyzed in the Final EIR differ in the location, design, and capacity of conveyance facilities and improvements. With the exception of the CEQA No Project Alternative, each of the alternatives selected for detailed evaluation in the EIR involves some level of construction of conveyance facilities/improvements to the SWP. The following alternatives, as described in detail in Final EIR, Volume 1, Chapter 3, *Description of the Proposed Project and Alternatives*, were carried forward for detailed analysis in the Final EIR.

Alternatives (introduced in the Draft EIR):

- Alternative 1—Central Alignment, 6,000 cfs, Intakes B and C
- Alternative 2a—Central Alignment, 7,500 cfs, Intakes A, B, and C
- Alternative 2b—Central Alignment, 3,000 cfs, Intake C
- Alternative 2c—Central Alignment, 4,500 cfs, Intakes B and C
- Alternative 3—Eastern Alignment, 6,000 cfs, Intakes B and C
- Alternative 4a—Eastern Alignment, 7,500 cfs, Intakes A, B, and C
- Alternative 4b—Eastern Alignment, 3,000 cfs, Intake C
- Alternative 4c—Eastern Alignment, 4,500 cfs, Intakes B and C
- Alternative 5—Bethany Reservoir Alignment, 6,000 cfs, Intakes B and C (Project)

7.3 Summary Comparison

This summary comparison of significant and unavoidable impacts describes the severity and magnitude of the project alternatives relative to the Project. The comparison focuses on two factors: the number of relative impacts for each category (i.e., the number of impacts with a severity greater than, equal to, or less than the Project) and the drivers for the differences in severity. The number of impacts is used as a point of comparison because CEQA does not treat any category of environmental effect as being more important than any other category and the comparison of numbers provides an overall picture of the differences between the project alternatives and the

Project. The drivers are used in the comparison because they illuminate the fundamental differences between the impacts of the Project and those of the project alternatives.

The primary drivers that provide insights into the differences between alternatives are the number of intakes, the alignment, the length and diameter of the tunnel, the location of project facilities relative to sensitive receptors, and the presence or absence of the Southern Complex. Each of these drivers (except location relative to sensitive receptors) affects the amount of ground disturbance associated with the alternative and the size of launch shaft sites, including amount and locations of reusable tunnel material (RTM) stockpiles.

Table 2 below provides an overview of the differences in the number and severity of significant and unavoidable impacts relative to the proposed project and drivers for those differences. Table 3 below compares in more detail the severity and magnitude of the significant and unavoidable impacts of the project alternatives to the Project. The finding of significant and unavoidable is the same across all alternatives (except for Impact AQ-6, which has a significant and unavoidable finding only for Alternatives 2a and 4a), but the severity and magnitude of the impacts may differ by alternative. Where quantitative data are available to compare alternatives and define the magnitude of the impact, Table 3 below provides summary data, their unit of measure, and their source.

As shown in Tables 2 and 3 below, for five impacts, the Project has a lesser severity than all or most project alternatives because it would:

- Include only two intakes and no Southern Complex and would therefore affect fewer acres of important farmland (Impact AG-1).
- Not include the Bouldin Island launch and reception shaft, the Southern Complex on Byron Tract, or the Southern Complex west of Byron Highway and therefore would have lesser impacts on visual quality of public views (Impact AES-1) and scenic vistas (Impact AES-3). In addition, the Bethany Reservoir would be constructed in a location with existing water infrastructure and other facilities.
- Have an alignment that would affect fewer identified built-environment historical resources (Impact CUL-1) and archaeological resources (Impact CUL-3).

For those impacts for which the severity of all project alternatives is the same as the Project (Impacts CUL-2, CUL-4, CUL-5 and Impacts TCR-1 and TCR-2), the impacts were of a type that cannot be quantified because resources have not been inventoried or are important for reasons that cannot be quantified, including cultural heritage.

For Impact TRANS-1, an equal number of project alternatives had per employee vehicle miles traveled (VMT) greater than and less than the Project. The number of employees, and thus number of vehicle trips generated during construction, is influenced by the duration and intensity of construction, which differs among the alternatives. The location of the alignment also influences VMT, with features constructed in more rural locations requiring longer employee vehicle trips, and thus generating more VMT, than features proximate to urban areas.

As shown in Tables 2 and 3 below, for two impacts (Impact AG-2 and Impact PALEO-2), the Project has a greater severity than all or most project alternatives because it would:

- Have an alignment that would intersect with more acres of Williamson Act and Farmland Security Zone acres and therefore result in the conversion of more acres when compared to project alternatives.

- Have a longer tunnel alignment in geologic units with high sensitivity for paleontological resources and therefore have greater potential to disturb paleontological resources when compared to project alternatives.

The single impact for which the Project had a more severe impact than all but one of the project alternatives was related to the number of receptors who would be affected by an increase in ambient noise levels (Impact NOI-1). However, if improvements required to avoid significant impacts are accepted by all eligible property owners, impacts would be less than significant with mitigation.

A summarized comparison in Table 2 below of the multiple pollutants analyzed in Impact AQ-5 across multiple air districts and timeframes would not accurately reflect the differences for each of those factors. For example, while Alternatives 2a and 4a would generally result in higher concentrations of combustion pollutants, fugitive dust concentrations in the San Joaquin Valley Air Pollution Control District (SJVAPCD) under Alternative 5 would be higher than most other alternatives. This is because under Alternative 5, two launch shafts would be constructed at Lower Roberts Island, effectively doubling the amount of earthmoving and vehicles traveling on unpaved surfaces at this location, compared to all other proposed alternatives. Therefore, more detail is provided regarding Impact AQ-5 in Table 3 below.

Table 2. Overview of the Differences in the Number and Severity of Significant and Unavoidable Impacts Relative to the Project and the Drivers for Those Differences

Impact(s)	Number of Alternatives with Impact Severity Greater or Equal to the Project	Project Drivers
CUL-2, CUL-4, CUL-5, TCR-1, and TCR-2	All Project Alternatives = Project	• Severity cannot be distinguished because of uninventoried resources or resources that are important for reasons that cannot be quantified, including cultural heritage
AG-1, AES-1, AES-3, and CUL-3	All 8 Project Alternatives > Project	• Absence of Southern Complex • Absence of Bouldin Island launch and reception shaft, Southern Complex on Byron Tract, or Southern Complex west of Byron Highway • Presence of existing water infrastructure at Bethany Complex • Fewer intakes visible from State Route 160 • Fewer cultural resources in project footprint • Absence of Intake A
AES-2, AG-2, and AQ-6	2 Project Alternatives > Project	
CUL-1	5 Project Alternatives > Project	
TRANS-1	4 Project Alternatives > Project	• Duration and intensity of construction • Location of the alignment (e.g., rural locations requiring longer employee vehicle trips)
PALEO-2	3 Project Alternatives > Project	• Longer tunnel alignment requiring more disturbance of geologic with high sensitivity for paleontological resources
NOI-1	0 Project Alternatives > Project	• Construction near greater number of sensitive noise receptors

Note: Impact AQ-5 is not included in this table because of the complexity of comparing multiple pollutants, timeframes, and air districts across multiple alternatives.

Table 3. Comparison of Significant and Unavoidable Impacts of Project Alternatives Relative to the Project (P)

Potential Impact (includes units of measure when applicable)	Project Alternative 5, Bethany Reservoir Alignment, 6,000 cfs, Intakes B and C	Alternative 1, Central Alignment, 6,000 cfs, Intakes B and C	Alternative 2a, Central Alignment, 7,500 cfs, Intakes A, B, and C	Alternative 2b, Central Alignment, 3,000 cfs, Intake C	Alternative 2c, Central Alignment, 4,500 cfs, Intakes B and C	Alternative 3, Eastern Alignment, 6,000 cfs, Intakes B and C	Alternative 4a, Eastern Alignment, 7,500 cfs, Intakes A, B, and C	Alternative 4b, Eastern Alignment, 3,000 cfs, Intake C	Alternative 4c, Eastern Alignment, 4,500 cfs, Intakes B and C
Impact AG-1: Convert a Substantial Amount of Prime Farmland, Unique Farmland, Farmland of Local Importance, or Farmland of Statewide Importance as a Result of Construction of Water Conveyance Facilities (total acres) (Construction)	SU 2,340	Greater than P 3,793.5	Greater than P 4,124.40	Greater than P 3,308.50	Greater than P 3,661.80	Greater than P 3,464.70	Greater than P 3,819.50	Greater than P 2,943.70	Greater than P 3,318.30
Impact AG-2: Convert a Substantial Amount of Land Subject to Williamson Act Contract or under Contract in Farmland Security Zones to a Nonagricultural Use as a Result of Construction of Water Conveyance Facilities (acres converted) (Construction)	SU 1,217.80	Less than P 1,042.30	Greater than P 1,253.60	Less than P 881.30	Less than P 950.60	Less than P 1,142.50	Greater than P 1,355.20	Less than P 982.00	Less than P 1,051.20
Impact AES-1: Substantially Degrade the Existing Visual Character or Quality of Public Views (from Publicly Accessible Vantage Points) of the Construction Sites and Visible Permanent Facilities and Their Surroundings in Nonurbanized Areas (Construction and O&M)	SU	Greater than P	Greater than P	Greater than P	Greater than P	Greater than P	Greater than P	Greater than P	Greater than P
Impact AES-2: Substantially Damage Scenic Resources including, but Not Limited to, Trees, Rock Outcroppings, and Historic Buildings Visible from a State Scenic Highway (number of intakes) (Construction)	SU 2	Equal to P 2	Greater than P 3	Less than P 1	Equal to P 2	Equal to P 2	Greater than P 3	Less than P 1	Equal to P 2
Impact AES-3: Have Substantial Significant Impacts on Scenic Vistas (Construction and O&M)	SU	Greater than P	Greater than P	Greater than P	Greater than P	Greater than P	Greater than P	Greater than P	Greater than P
Impact AQ-5: Result in Exposure of Sensitive Receptors to Substantial Localized Criteria Pollutant Emissions (PM10) (highest project-level concentration in excess of the significant impact level [µg/m³] across all timeframes [24-hour, annual] and standards [CAAQS, NAAQS]) (Construction)	SU (SMAQMD, 10)	Equal to P (SMAQMD, 10)	Greater than P (SMAQMD, 13)	Less than P (SMAQMD, 9)	Less than P (SMAQMD, 9)	Greater than P (SMAQMD, 12)	Greater than P (SMAQMD, 13)	Less than P (SMAQMD, 9)	Greater than P (SMAQMD, 9)
	(SJVAPCD, 111)	Less than P (SJVAPCD, 50)	Less than P (SJVAPCD, 55)	Less than P (SJVAPCD, 37)	Less than P (SJVAPCD, 45)	Equal to P (SJVAPCD, 111)	Equal to P (SJVAPCD, 111)	Less than P (SJVAPCD, 109)	Less than P (SJVAPCD, 110)
	(BAAQMD, 22)	Greater than P (BAAQMD, 94)	Greater than P (BAAQMD, 94)	Greater than P (BAAQMD, 94)	Greater than P (BAAQMD, 94)	Greater than P (BAAQMD, 94)	Greater than P (BAAQMD, 94)	Greater than P (BAAQMD, 94)	Greater than P (BAAQMD, 94)
Impact AQ-5: Result in Exposure of Sensitive Receptors to Substantial Localized Criteria Pollutant Emissions (PM2.5) (highest project-level concentration in excess of the significant impact level [µg/m³] across all timeframes [24-hour, annual] and standards [CAAQS, NAAQS]) (Construction)	SU (SMAQMD, 1.0)	Greater than P (SMAQMD, 1.4)	Greater than P (SMAQMD, 1.3)	Greater than P (SMAQMD, 1.3)	Less than P (SMAQMD, 0.9)	Greater than P (SMAQMD, 1.5)	Greater than P (SMAQMD, 1.2)	Greater than P (SMAQMD, 1.3)	Less than P (SMAQMD, 0.9)
	(SJVAPCD, 9.3)	Less than P (SJVAPCD, 2.8)	Less than P (SJVAPCD, 2.7)	Less than P (SJVAPCD, 2.5)	Less than P (SJVAPCD, 2.3)	Equal to P (SJVAPCD, 9.3)	Equal to P (SJVAPCD, 9.3)	Equal to P (SJVAPCD, 9.3)	Equal to P (SJVAPCD, 9.3)
	(BAAQMD, 1.5)	Greater than P (BAAQMD, 8.6)	Greater than P (BAAQMD, 8.6)	Greater than P (BAAQMD, 8.6)	Greater than P (BAAQMD, 8.6)	Greater than P (BAAQMD, 8.6)	Greater than P (BAAQMD, 8.6)	Greater than P (BAAQMD, 8.6)	Greater than P (BAAQMD, 8.6)

Potential Impact (includes units of measure when applicable)	Project Alternative 5, Bethany Reservoir Alignment, 6,000 cfs, Intakes B and C	Alternative 1, Central Alignment, 6,000 cfs, Intakes B and C	Alternative 2a, Central Alignment, 7,500 cfs, Intakes A, B, and C	Alternative 2b, Central Alignment, 3,000 cfs, Intake C	Alternative 2c, Central Alignment, 4,500 cfs, Intakes B and C	Alternative 3, Eastern Alignment, 6,000 cfs, Intakes B and C	Alternative 4a, Eastern Alignment, 7,500 cfs, Intakes A, B, and C	Alternative 4b, Eastern Alignment, 3,000 cfs, Intake C	Alternative 4c, Eastern Alignment, 4,500 cfs, Intakes B and C
Impact AQ-5: Result in Exposure of Sensitive Receptors to Substantial Localized Criteria Pollutant Emissions (total 1-hour NO_2, NAAQS [µg/m^3]) (Construction)	SU (SJVAPCD) LTS (SMAQMD, BAAQMD)	SU (SJVAPCD) LTS (SMAQMD, BAAQMD)	SU (SJVAPCD) LTS (SMAQMD, BAAQMD)	SU (SJVAPCD) LTS (SMAQMD, BAAQMD)	SU (SJVAPCD) LTS (SMAQMD, BAAQMD)	LTS (SJVAPCD, SMAQMD, BAAQMD)	LTS (SJVAPCD, SMAQMD, BAAQMD)	LTS (SJVAPCD, SMAQMD, BAAQMD)	LTS (SJVAPCD, SMAQMD, BAAQMD)
	(SMAQMD, 134)	Less than P (SMAQMD, 133)	Greater than P (SMAQMD, 184)	Greater than P (SMAQMD, 143)	Less than P (SMAQMD, 133)	Less than P (SMAQMD, 133)	Greater than P (SMAQMD, 184)	Greater than P (SMAQMD, 143)	Less than P (SMAQMD, 133)
	(SJVAPCD, 218)	Greater than P (SJVAPCD, 243)	Greater than P (SJVAPCD, 243)	Greater than P (SJVAPCD, 243)	Greater than P (SJVAPCD, 243)	Less than P (SJVAPCD, 186)	Less than P (SJVAPCD, 186)	Less than P (SJVAPCD, 186)	Less than P (SJVAPCD, 186)
	(BAAQMD, 76)	Greater than P (BAAQMD, 80)	Greater than PP (BAAQMD, 80)	Greater than P (BAAQMD, 80)	Greater than P (BAAQMD, 80)	Greater than P (BAAQMD, 80)	Greater than P (BAAQMD, 80)	Greater than P (BAAQMD, 80)	Greater than P (BAAQMD, 80)
Impact AQ-6: Result in Exposure of Sensitive Receptors to Substantial Toxic Air Contaminant Emissions (maximum modeled excess cancer [potential cases per million] by air district) (Construction)	LTS	LTS	SU	LTS	LTS	LTS	SU	LTS	LTS
	(SMAQMD, 7)	Less than P (SMAQMD, 6)	Greater than P (SMAQMD, 16)	Less than P (SMAQMD, 4)	Less than P (SMAQMD, 2)	Less than P (SMAQMD, 6)	Greater than P (SMAQMD, 16)	Less than P (SMAQMD, 4)	Less than P (SMAQMD, 6)
	(SJVAPCD, 5)	Less than P (SJVAPCD, 2)	Less than P (SJVAPCD, 2)	Less than P (SJVAPCD, 2)	Greater than P (SJVAPCD, 6)	Less than P (SJVAPCD, 3)	Less than P (SJVAPCD, 3)	Less than P (SJVAPCD, 3)	Less than P (SJVAPCD, 3)
	(BAAQMD, 1)	Equal to P (BAAQMD, 1)	Greater than P (BAAQMD, 2)	Equal to P (BAAQMD, 1)	Equal to P (BAAQMD, 1)	Equal to P (BAAQMD, 1)	Greater than P (BAAQMD, 2)	Equal to P (BAAQMD, 1)	Equal to P (BAAQMD, 1)
	(YSAQMD, 1)	Equal to P (YSAQMD, 1)	Equal to P (YSAQMD, 1)	Equal to P (YSAQMD, 1)	Equal to P (YSAQMD, 1)	Equal to P (YSAQMD, 1)	Equal to P (YSAQMD, 1)	Equal to P (YSAQMD, 1)	Equal to P (YSAQMD, 1)
Impact CUL-1: Impacts on Built-Environment Historical Resources Resulting from Construction and Operation of the Project (number of resources) (Construction and O&M)	SU 6	Greater than P 10	Greater than P 13	Greater than P 8	Greater than P 10	Equal to P 6	Greater than P 9	Less than P 4	Equal to P 6
Impact CUL-2: Impacts on Unidentified and Unevaluated Built-Environment Historical Resources Resulting from Construction and Operation of the Project (number of resources) (Construction and O&M)	SU 88	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P
Impact CUL-3: Impacts on Identified Archaeological Resources Resulting from the Project (number of resources) (Construction)	SU 8	Greater than P 25	Greater than P 26	Greater than P 22	Greater than P 23	Greater than P 15	Greater than P 17	Greater than P 13	Greater than P 15
Impact CUL-4: Impacts on Unidentified Archaeological Resources That May Be Encountered in the Course of the Project (Construction)	SU	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P

Potential Impact (includes units of measure when applicable)	Project Alternative 5, Bethany Reservoir Alignment, 6,000 cfs, Intakes B and C	Alternative 1, Central Alignment, 6,000 cfs, Intakes B and C	Alternative 2a, Central Alignment, 7,500 cfs, Intakes A, B, and C	Alternative 2b, Central Alignment, 3,000 cfs, Intake C	Alternative 2c, Central Alignment, 4,500 cfs, Intakes B and C	Alternative 3, Eastern Alignment, 6,000 cfs, Intakes B and C	Alternative 4a, Eastern Alignment, 7,500 cfs, Intakes A, B, and C	Alternative 4b, Eastern Alignment, 3,000 cfs, Intake C	Alternative 4c, Eastern Alignment, 4,500 cfs, Intakes B and C
Impact CUL-5: Impacts on Buried Human Remains (Construction)	SU	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P
Impact NOI-1: Generate a Substantial Temporary or Permanent Increase in Ambient Noise Levels in the Vicinity of the Project in Excess of Standards Established in the Local General Plan or Noise Ordinance, or Applicable Standards of Other Agencies (number of receptors) (Construction)	SU* 408	Less than P 316	Less than P 361	Less than P 74	Less than P 316	Less than P 363	Equal to P 408	Less than P 121	Less than P 363
Impact PALEO-2: Cause Destruction of a Unique Paleontological Resource as a Result of Tunnel Construction and Ground Improvement (million loose cubic yards as a result of tunneling) (Construction)	SU 14.4	Less than P 13.9	Greater than P 18.4	Less than P 7.5	Less than P 10.7	Greater than P 14.8	Greater than P 19.5	Less than P 7.9	Less than P 11.3
Impact TCR-1: Impacts on the Delta Tribal Cultural Landscape Tribal Cultural Resource Resulting from Construction, Operations, and Maintenance of the Project Alternatives (Construction and O&M)	SU	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P
Impact TCR-2: Impacts on Individual Tribal Cultural Resources Resulting from Construction, Operations, and Maintenance of the Project Alternatives (Construction and O&M)	SU	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P	Equal to P
Impact TRANS-1: Increased Average VMT Per Construction Employee versus Regional Average (average VMT per construction employee) (Construction)	SU 25.77	Less than P 25.68	Greater than P 25.82	Greater than P 27.02	Less than P 24.91	Less than P 24.38	Greater than P 26.33	Greater than P 27.57	Less than P 25.06

µg/m^3 = micrograms per cubic meter; BAAQMD = Bay Area Air Quality Management District; CAAQS = California ambient air quality standards; cfs = cubic feet per second; HI = hazard index; LTS = less than significant; NAAQS = national ambient air quality standards; NO_2 = nitrogen dioxide; NO_X = nitrogen oxides; O&M = operation and management; PM2.5 = particulate matter 2.5 microns in diameter or less; PM10 = particulate matter 10 microns in diameter or less; P = project; SJVAPCD = San Joaquin Valley Air Pollution Control District; SMAQMD = Sacramento Metropolitan Air Quality Management District; SU = significant and unavoidable; VMT = vehicle miles traveled; YSAQMD = Yolo-Solano Air Quality Management District. The metrics reported in this table are for project alternatives only without implementation of the Compensatory Mitigation Plan (CMP) because as disclosed in the EIR the impacts associated with the CMP would be the same across all alternatives.

7.4 Environmentally Superior Alternative

CEQA Guidelines section 15126.6 requires that each EIR identify the "environmentally superior alternative" among those considered. If the No Project Alternative is identified as environmentally superior, then the EIR must also identify the environmentally superior alternative among the other alternatives. (CEQA Guidelines, § 15126.6, subd. (e)(2).)

As discussed in the Final EIR, the No Project Alternative would not result in the construction or operational related impacts discussed for the project alternatives but could result in impacts within the SWP service area and within the Delta that would not occur under the project alternatives.

The Project would, overall, result in less severe environmental impacts than the proposed project options identified in the NOP as well as the other alternatives analyzed in the EIR. Therefore, the Project is considered the environmentally superior alternative because it would reduce the severity of adverse environmental effects across a broad range of environmental resources and would not result in any significant and unavoidable environmental impacts that could be avoided by other feasible alternatives evaluated in the EIR.

The following discussion describes what DWR regards as the environmental pros and cons among the various project alternatives analyzed in the Final EIR by synthesizing the analysis of several of the environmental impacts discussed in Chapters 7 through 32 of the Final EIR, Volume 1.

As described in Chapter 2, *Purpose and Project Objectives*, the project alternatives evaluated in the Final EIR have the following objectives.

- To help address anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events.
- To minimize the potential for public health and safety impacts from reduced quantity and quality of SWP water deliveries, and potentially CVP water deliveries, south of the Delta as a result of a major earthquake that could cause breaching of Delta levees and the inundation of brackish water into the areas where existing SWP and CVP pumping plants operate in the southern Delta.
- To protect the ability of the SWP, and potentially the CVP, to deliver water when hydrologic conditions result in the availability of sufficient amounts of water, consistent with the requirements of state and federal law, including the ESA, CESA and Delta Reform Act, as well as the terms and conditions of water delivery contracts and other existing applicable agreements.
- To provide operational flexibility to improve aquatic conditions in the Delta and better manage risks of further regulatory constraints on project operations.

The project alternatives would reduce reliance on diversion from the existing south Delta pumps. Diversions at the project's north Delta facilities would pass through state-of-the-art fish screens. Dual conveyance would provide operational flexibility that could reduce impacts of the SWP on aquatic species by, among other things, allowing operators to divert water at times and places—in either the north or the south—that protect those species at sensitive life stages.

Each project alternative involves a different set of environmental benefits and impacts. For example, the number of north Delta intakes associated with particular alternatives and the alignment of project features typically reflects a balance between localized construction-related, visual, and footprint-related impacts in the Delta against the system-wide environmental benefits associated

with improved reliability of SWP deliveries and meeting the project purpose and objectives. Alternatives with two intakes would involve fewer localized in-Delta impacts than alternatives with three intakes (Alternatives 2a and 4a). Other alternatives with two intakes (Alternatives 1, 2c, 3, 4c, and 5) or with one intake (Alternatives 2b and 4b) would similarly reduce localized, in-Delta impacts compared to alternatives with three intakes. However, alternatives with one intake (Alternatives 2b and 4b) would not have the water supply reliability benefits expected of alternatives with two or three intakes (Alternatives 1, 2a, 2c, 3, 4a, 4c, and 5).

Some of the environmental impacts related to temporary and permanent habitat or agricultural land conversion would be fewer for Alternatives 1, 2b, 2c, 3, 4b, 4c, and 5 than for Alternatives 2a or 4a, which would include three north Delta intakes. Alternatives with three intakes (Alternatives 2a and 4a) would result in the greatest number of acres of farmland conversion while alternatives with fewer intakes (Alternatives 1, 2b, 2c, 3, 4b, and 4c) or that would not involve construction of a new Southern Complex (Project) would have fewer acres of farmland conversion. Similarly, alternatives with three intakes (Alternatives 2a and 4a) would cause the greatest amount of conversion of Williamson Act contracted land compared to alternatives with one intake (Alternatives 2b and 4b), which would result in the least amount of conversion of Williamson Act contracted land. Alternative 4b would have relatively fewer terrestrial biological impacts, and for some other biological resources, would have the fewest quantified impacts of all alternatives (e.g., valley/foothill riparian, greater and lesser sandhill cranes) primarily due to having only one intake and the associated smaller reusable tunnel material impacts. Because the Project does not require construction of a new Southern Forebay and a new South Delta Pumping Plant, it would affect substantially fewer acres of wetlands compared to all other alternatives. The Project would also have substantially fewer impacts on state and federally regulated aquatic resources compared to the other project alternatives.

For some environmental resources analyzed, the project alignment and features drive the overall impacts in addition to the number of intakes. For cultural resources, alternatives on the central alignment (Alternatives 1, 2a, 2b, and 2c) affect a greater number of built-environment historical resources than alternatives on the eastern or Bethany Reservoir alignments (Alternatives 3, 4a, 4b, 4c, and 5). The central alignment alternatives (Alternatives 1, 2a, 2b, and 2c) would generally result in greater impacts on terrestrial biological resources relative to the eastern alignment alternatives (Alternatives 3, 4a, 4b, and 4c) and the Bethany Reservoir alignment alternative (Project), which is largely due to the improvements on Bouldin Island and road improvements throughout the central alignment. Among all alternatives, the Project would result in the least amount of converted farmland because it does not require construction of a new Southern Complex and Southern Forebay.

The construction of the Southern Complex for Alternatives 1, 2a, 2b, 2c, 3, 4a, 4b, and 4c is another important variable that contributes to localized impacts. Alternative 2a would result in the greatest impacts on terrestrial biological resources, which would be primarily due to the construction activities on Bouldin Island and the Southern Complex, whereas the Project, which does not require the construction of a forebay, would have the fewest impacts on terrestrial biological resources, wetlands, and waters of the United States. For cultural resources, the Project's Bethany Reservoir alignment would affect the fewest eligible built-environmental historical resources and fewest archaeological sites compared to all other project alternatives because it would not require construction of a new forebay. The Project would result in the fewest acres with land use incompatibilities compared to all other alternatives that require construction of the Southern Forebay at the Southern Complex.

There could also be some environmental benefits that would occur under all project alternatives because of the operational flexibility that would be possible with the north Delta intakes. The addition of north Delta intakes to the existing diversion facilities in the south would provide system operators the flexibility to divert water from the north or south depending on which is better for sensitive fish species at different times of year and under different hydrological conditions. Dual conveyance also allows flexibility in water diversions when regulatory restrictions limit the ability to divert water from either the north or south, thus enabling the goal of increasing water supply reliability.

All of the project alternatives would create temporary and permanent changes to the Delta environment from construction that in most cases would be mitigated to less-than-significant levels, although several impacts are considered significant and unavoidable. All of the project alternatives would also improve Delta roadways and bridges, and improve water supply infrastructure that is of statewide importance.

As described above, there are different sets of environmental tradeoffs among the project alternatives. Among the project alternatives evaluated in the Final EIR, the Project, on the Bethany Reservoir alignment, overall lessens impacts in relation to temporary and permanent effects on the Delta environment, including minimizing impacts on wetlands and other waters of the United States, agriculture (Impact AG-1), aesthetic (Impacts AES-1 and 3), and cultural and historical resources (Impact CUL-3). Therefore, of the project alternatives, the Project is considered the environmentally superior alternative.

7.5 Infeasibility of Alternatives Other than the Project

CEQA vests the final decision-making authority over a project with the designated lead agency decision-making body or official, who must act consistently with his or her agency's statutory function and powers. As the California Supreme Court stated in acknowledging the limits of its own review function, "[t]he wisdom of approving … any … project" is "a delicate task which requires a balancing of interests," and "is necessarily left to the sound discretion of the [public] officials and their constituents who are responsible for such decisions." (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 576.)

As explained earlier, a decision maker's assessment of the "actual feasibility" of EIR alternatives can involve the "reasonable balancing of the relevant economic, environmental, social, and technological factors" associated with a proposed project. (*City of Del Mar, supra,* 133 Cal.App.3d at p. 417.) Based on such a balancing process, a decision maker may conclude that an alternative, being "undesirable" from a policy standpoint, is infeasible within the meaning of CEQA. (*CNPS, supra,* 177 Cal.App.4th at pp. 981, 999, 1001; *City of Del Mar, supra,* 133 Cal.App.3d at p. 417; *San Diego Citizenry Group, supra,* 219 Cal.App.4th at pp. 17-18; *Sustainability, Parks, Recycling & Wildlife Legal Def. Fund v. San Francisco Bay Conservation & Dev. Com.* (2014) 226 Cal.App.4th 905, 917-918.) In making such determinations, the decision maker may also consider the extent to which an alternative meets project objectives. (*CNPS, supra,* 177 Cal.App.4th at p. 1001 *["*[A]n alternative 'may be found infeasible on the ground it is inconsistent with the project objectives as long as the finding is supported by substantial evidence in the record.'"]; see also *Save Panoche Valley, supra,* 217 Cal.App.4th at pp. 521-523; and *Citizens for Open Government, supra,* 205 Cal.App.4th at pp. 314-

315.) Under these principles, a decision maker may reject an alternative as infeasible even if the alternative would avoid or substantially lessen one or more of the unavoidable significant environmental effects of a proposed project as mitigated.

"CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, *including region-wide or statewide environmental benefits*, of a proposed project against its unavoidable environmental risks when determining whether to approve the project." (CEQA Guidelines, § 15093, subd. (a), italics added.) Thus, decision makers often find themselves balancing competing environmental considerations as well as competing economic and social considerations.

The Project and its alternatives indeed present all of these categories of competing considerations. DWR, through its Director, has therefore undertaken a deliberative process to balance such competing considerations against each other in light of project objectives and state and federal law. In addition to finding that the Project is the environmentally superior alternative (as discussed above in Section 7.4, *Environmentally Superior Alternative*), DWR rejects the other alternatives set forth in the EIR, and discussed further below, because the Director finds that there is substantial evidence, including evidence of economic, legal, social, technological, and other considerations described in this section and elsewhere in the record on these proceedings under CEQA Guidelines section 15091, subdivision (a)(3), that make the alternatives infeasible. Set forth below are the Director's conclusions with respect to each of the alternatives considered in the Final EIR.

As discussed above, the Project is considered the environmentally superior alternative.

Therefore, the discussion below mainly focuses on infeasibility related to the fundamental purpose and objectives and other feasibility or policy considerations.

7.5.1 Rejection of Alternative 1: 6,000 cfs Central Alignment with Intakes B and C

7.5.1.1 Fundamental Purpose and Objectives

The extent to which this alternative can achieve the project purpose and objectives is comparable to the Project because it has the same water conveyance capacity as the Project.

7.5.1.2 Other Feasibility/Policy Considerations

The Central Alignment's proximity to existing access road infrastructure is less ideal than the Eastern and Bethany alignments, which are accessible to Interstate 5. This could make access for construction more difficult and construction more laborious than on the Eastern or Bethany alignments.

This alternative includes the construction of a Southern Forebay, which inherently requires more construction and results in greater impacts than the Project, which does not require the construction of a Southern Forebay. More construction would result in a greater environmental footprint and potentially greater local community impacts.

Through its Director, DWR rejects Alternative 1 on each of the above grounds. The Director finds that each of the above reasons is a sufficient independent ground for rejecting Alternative 1 as infeasible.

7.5.2 Rejection of Alternative 2a: 7,500 cfs Central Alignment with Intakes A-C

7.5.2.1 Fundamental Purpose and Objectives

This alternative would have similar potential to achieve SWP water supply reliability as the Project. However, it would have additional benefits for the CVP because it has an additional intake that would provide capacity for CVP water deliveries.

7.5.2.2 Other Feasibility/Policy Considerations

Unlike the Project, Alternative 2a would have an additional significant and unavoidable impact: Impact AQ-6, *Result in Exposure of Sensitive Receptors to Substantial Toxic Air Contaminant Emissions*.

The Central Alignment's proximity to existing access road infrastructure is less ideal than the Eastern and Bethany alignments, which are accessible to Interstate 5. This could make access for construction more difficult and construction more laborious than on the Eastern or Bethany alignments.

Because this alternative involves the construction of an additional intake, it would result in greater impacts. These impacts include a greater environmental footprint and potentially greater local community impacts.

This alternative also includes the construction of a Southern Forebay, which inherently requires more construction and results in greater impacts than the Project, which does not require the construction of a Southern Forebay. More construction would result in a greater environmental footprint and potentially greater local community impacts.

Through its Director, DWR rejects Alternative 2a on each of the above grounds. The Director finds that each of the above reasons is a sufficient independent ground for rejecting Alternative 2a as infeasible.

7.5.3 Rejection of Alternative 2b: 3,000 cfs Central Alignment with Intake C

7.5.3.1 Fundamental Purpose and Objectives

This alternative would not achieve the Project's purpose of water supply reliability as effectively as the Project because it has one less intake and 3,000 cfs less capacity of water conveyance compared to the Project.

Alternative 2b would be less capable of meeting the Project's objective of addressing anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events. If salinity intrusion were to prevent the use of the existing south Delta pumps, Alternative 2b would have less conveyance capacity to be able to provide water supply reliability to the SWP when compared to the Project. Additionally, Alternative 2b would be less capable of protecting the SWP from future climatic change and mitigating system losses due to changing precipitation patterns and seasonal runoff due to climate change, compared to the Project, due to its lower maximum capacity. Alternative 2b would have less overall capacity to capture excess flows in

the system and divert periodic and significant excess flows when southern Delta pumping is currently restricted. Therefore, Alternative 2b would also be less capable of protecting the ability of the SWP to deliver water when hydrologic conditions result in the availability of sufficient amounts of water, compared to the Project.

In the event of catastrophic levee failures from seismic activities (which could temporarily disrupt water supply by ceasing diversions from the SWP's current point of diversion in the south Delta), Alternative 2b would be less capable of minimizing the potential for public health and safety impacts from reduced quantity and quality of SWP water deliveries south of the Delta, compared to the Project, due to its lower maximum capacity.

Because Alternative 2b has only one intake and a lower maximum capacity, it would also provide less operational flexibility to improve aquatic conditions in the Delta for sensitive fish species and less operational flexibility to better manage risks of further regulatory constraints on project operations.

7.5.3.2 Other Feasibility/Policy Considerations

The Central Alignment's proximity to existing access road infrastructure is less ideal than the Eastern and Bethany alignments, which are accessible to Interstate 5. This could make access for construction more difficult and construction more laborious than on the Eastern or Bethany alignments.

This alternative includes the construction of a Southern Forebay, which inherently requires more construction and results in greater impacts than the Project, which does not require the construction of a Southern Forebay. More construction would result in a greater environmental footprint and potentially greater local community impacts.

Through its Director, DWR rejects Alternative 2b on each of the above grounds. The Director finds that each of the above reasons is a sufficient independent ground for rejecting Alternative 2b as infeasible.

7.5.4 Rejection of Alternative 2c: 4,500 cfs Central Alignment with Intakes B and C

7.5.4.1 Fundamental Purpose and Objectives

This alternative would not achieve the project's purpose of water supply reliability as effectively as the Project because it has 1,500 cfs less capacity of water conveyance.

Alternative 2c would be less capable of meeting the Project's objective of addressing anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events. If salinity intrusion were to prevent the use of the existing south Delta pumps, Alternative 2c would have less conveyance capacity to be able to provide water supply reliability to the SWP when compared to the Project. Additionally, Alternative 2c would be less capable of protecting the SWP from future climatic change and mitigating system losses due to changing precipitation patterns and seasonal runoff due to climate change, compared to the Project, due to its lower maximum capacity. Alternative 2c would have less overall capacity to capture excess flows in the system and divert periodic and significant excess flows when southern Delta pumping is currently restricted. Therefore, Alternative 2c would also be less capable of protecting the ability of

the SWP to deliver water when hydrologic conditions result in the availability of sufficient amounts of water, compared to the Project.

In the event of catastrophic levee failures from seismic activities (which could temporarily disrupt water supply by ceasing diversions from the SWP's current point of diversion in the south Delta), Alternative 2c would be less capable of minimizing the potential for public health and safety impacts from reduced quantity and quality of SWP water deliveries south of the Delta, compared to the Project, due to its lower maximum capacity.

Because Alternative 2c has a lower maximum capacity, it would also provide less operational flexibility to improve aquatic conditions in the Delta and less operational flexibility to better manage risks of further regulatory constraints on project operations.

7.5.4.2 Other Feasibility/Policy Considerations

The Central Alignment's proximity to existing access road infrastructure is less ideal than the Eastern and Bethany alignments, which are accessible to Interstate 5. This could make access for construction more difficult and construction more laborious than on the Eastern or Bethany alignments.

This alternative includes the construction of a Southern Forebay, which inherently requires more construction and results in greater impacts than the Project, which does not require the construction of a Southern Forebay. More construction would result in a greater environmental footprint and potentially greater local community impacts.

Through its Director, DWR rejects Alternative 2c on each of the above grounds. The Director finds that each of the above reasons is a sufficient independent ground for rejecting Alternative 2c as infeasible.

7.5.5 Rejection of Alternative 3: 6,000 cfs Eastern Alignment with Intakes B and C

7.5.5.1 Fundamental Purpose and Objectives

The extent to which this alternative can achieve the project purpose and objectives is comparable to the Project because it has the same water conveyance capacity as the Project.

7.5.5.2 Other Feasibility/Policy Considerations

This alternative includes the construction of a Southern Forebay, which inherently requires more construction and results in greater impacts than the Project, which does not require the construction of a Southern Forebay. More construction would result in a greater environmental footprint and potentially greater local community impacts.

Through its Director, DWR rejects Alternative 3 on each of the above grounds. The Director finds that each of the above reasons is a sufficient independent ground for rejecting Alternative 3 as infeasible.

7.5.6 Rejection of Alternative 4a: 7,500 cfs Eastern Alignment with Intakes A-C

7.5.6.1 Fundamental Purpose and Objectives

This alternative would have similar potential to achieve SWP water supply reliability as the Project. However, it would have additional benefits for the CVP because it has an additional intake that would provide capacity for CVP water deliveries.

7.5.6.2 Other Feasibility/Policy Considerations

Unlike the proposed project, Alternative 4a would have an additional significant and unavoidable impact: Impact AQ-6, Result in Exposure of Sensitive Receptors to Substantial Toxic Air Contaminant Emissions.

Because this alternative involves the construction of an additional intake, it would result in greater impacts. These impacts include a greater environmental footprint and potentially greater local community impacts.

This alternative includes the construction of a Southern Forebay, which inherently requires more construction and results in greater impacts than the Project, which does not require the construction of a Southern Forebay. More construction would result in a greater environmental footprint and potentially greater local community impacts.

Through its Director, DWR rejects Alternative 4a on each of the above grounds. The Director finds that each of the above reasons is a sufficient independent ground for rejecting Alternative 4a as infeasible.

7.5.7 Rejection of Alternative 4b: 3,000 cfs Eastern Alignment with Intake C

7.5.7.1 Fundamental Purpose and Objectives

This alternative would not achieve the Project's purpose of water supply reliability as effectively as the Project because it has one less intake and 3,000 cfs less capacity of water conveyance compared to the Project.

Alternative 4b would be less capable of meeting the Project's objective of addressing anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events. If salinity intrusion were to prevent the use of the existing south Delta pumps, Alternative 4b would have less conveyance capacity to be able to provide water supply reliability to the SWP when compared to the Project. Additionally, Alternative 4b would be less capable of protecting the SWP from future climatic change and mitigating system losses due to changing precipitation patterns and seasonal runoff due to climate change, compared to the Project, due to its lower maximum capacity. Alternative 4b would have less overall capacity to capture excess flows in the system and divert periodic and significant excess flows when southern Delta pumping is currently restricted. Therefore, Alternative 4b would also be less capable of protecting the ability of the SWP to deliver water when hydrologic conditions result in the availability of sufficient amounts of water, compared to the Project.

In the event of catastrophic levee failures from seismic activities (which could temporarily disrupt water supply by ceasing diversions from the SWP's current point of diversion in the south Delta), Alternative 4b would be less capable of minimizing the potential for public health and safety impacts from reduced quantity and quality of SWP water deliveries south of the Delta, compared to the Project, due to its lower maximum capacity.

Because Alternative 4b has only one intake and a lower maximum capacity, it would also provide less operational flexibility to improve aquatic conditions in the Delta and less operational flexibility to better manage risks of further regulatory constraints on project operations.

7.5.7.2 Other Feasibility/Policy Considerations

This alternative includes the construction of a Southern Forebay, which inherently requires more construction and results in greater impacts than the Project, which does not require the construction of a Southern Forebay. More construction would result in a greater environmental footprint and potentially greater local community impacts.

Through its Director, DWR rejects Alternative 4b on each of the above grounds. The Director finds that each of the above reasons is a sufficient independent ground for rejecting Alternative 4b as infeasible.

7.5.8 Rejection of Alternative 4c: 4,500 cfs Eastern Alignment with Intakes B and C

7.5.8.1 Fundamental Purpose and Objectives

This alternative would not achieve the project's purpose of water supply reliability as effectively as the Project because it has 1,500 cfs less capacity of water conveyance.

Alternative 4c would be less capable of meeting the Project's objective of addressing anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events. If salinity intrusion were to prevent the use of the existing south Delta pumps, Alternative 4c would have less conveyance capacity to be able to provide water supply reliability to the SWP when compared to the Project. Additionally, Alternative 4c would be less capable of protecting the SWP from future climatic change and mitigating system losses due to changing precipitation patterns and seasonal runoff due to climate change, compared to the Project, due to its lower maximum capacity. Alternative 4c would have less overall capacity to capture excess flows in the system and divert periodic and significant excess flows when southern Delta pumping is currently restricted. Therefore, Alternative 4c would also be less capable of protecting the ability of the SWP to deliver water when hydrologic conditions result in the availability of sufficient amounts of water, compared to the Project.

In the event of catastrophic levee failures from seismic activities (which could temporarily disrupt water supply by ceasing diversions from the SWP's current point of diversion in the south Delta), Alternative 4c would be less capable of minimizing the potential for public health and safety impacts from reduced quantity and quality of SWP water deliveries south of the Delta, compared to the Project, due to its lower maximum capacity.

Because Alternative 4c has a lower maximum capacity, it would also provide less operational flexibility to improve aquatic conditions in the Delta and less operational flexibility to better manage risks of further regulatory constraints on project operations.

7.5.8.2 Other Feasibility/Policy Considerations

This alternative includes the construction of a Southern Forebay, which inherently requires more construction and results in greater impacts than the Project, which does not require the construction of a Southern Forebay. More construction would result in a greater environmental footprint and potentially greater local community impacts.

Through its Director, DWR rejects Alternative 4c on each of the above grounds. The Director finds that each of the above reasons is a sufficient independent ground for rejecting Alternative 4c as infeasible.

7.5.9 Rejection of No Project Alternative

7.5.9.1 Fundamental Purpose and Objectives

As described in Final EIR, Volume 1, Chapter 4, *Framework for the Environmental Analysis*, the No Project Alternative analyses evaluate a scenario that includes climate change and sea level rise, as well as projects that may occur within the SWP service area if the Delta Conveyance Project does not move forward.

The No Project Alternative fails to meet DWR's fundamental purpose of "restor[ing] and protect[ing] the reliability of SWP water deliveries and, potentially, CVP water deliveries south of the Delta consistent with the State's Water Resilience Portfolio (California Natural Resources Agency et al. 2020) by addressing the seismic risks, sea level rise, and other reasonably foreseeable consequences of climate change and extreme weather events in a cost effective manner." This alternative also fails to meet any of the four specific project objectives described in Chapter 2, *Purpose and Project Objectives*, of "help[ing] address anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events; and "minimiz[ing] the potential for public health and safety impacts from reduced quantity and quality of SWP water deliveries, and potentially CVP water deliveries, south of the Delta as a result of a major earthquake that could cause breaching of Delta levees and the inundation of brackish water into the areas where existing SWP and CVP pumping plants operate in the southern Delta"; and "protect[ing] the ability of the SWP, and potentially the CVP, to deliver water when hydrologic conditions result in the availability of sufficient amounts of water, consistent with the requirements of the state and federal law, including the ESA, CESA and Delta Reform Act, as well as the terms and conditions of water delivery contracts and other existing applicable agreements"; and "provid[ing] operational flexibility to improve aquatic conditions in the Delta and better manage risks of further regulatory constraints on project operations."

7.5.9.2 Other Feasibility/Policy Considerations

The No Project Alternative would leave the SWP system subject to potentially catastrophic consequences in the event of a major earthquake leading to levee breaks, inundation of Delta islands, and prolonged disruptions of exports that could require environmentally damaging emergency measures south of the Delta to provide water (California Department of Water Resources

2008b). Even in the absence of an event that catastrophically alters the hydrology of the Delta, climate change and anticipated sea level rise could be expected to gradually limit the operation of the SWP water pumps in the south Delta (California Department of Water Resources 2018). Consequently, additional releases from upstream reservoirs are expected to be necessary to provide the fresh water needed to meet current salinity standards (California Department of Water Resources 2018). While water users have previously relied on groundwater to supplement surface water supplies when operation of the SWP is limited by regulations to improve aquatic conditions, groundwater pumping is now managed under the Sustainable Groundwater Management Act requirements, which would have implications for meeting water supply demands depending on the designation of a groundwater basin Chapter 8, *Groundwater*, Section 8.3.2.1, *No Project Alternative*). As described in in the No Project Alternative discussions in Final EIR, Volume 1, Chapters 7 through 32, water managers in urban export areas could respond to diminished deliveries by taking other actions, such as the construction of recycled water facilities and desalination plants, that would create their own negative environmental effects, including consumption of large amounts of greenhouse gas-generating fossil fuels, brine discharge, and for desalinization plants, potential entrainment of aquatic species.

Through its Director, DWR rejects the No Project Alternative on each of the above grounds. The Director finds that each of the above reasons is a sufficient independent ground for rejecting the No Project Alternative as infeasible.

7.5.10 Alternatives Considered but Rejected from Further Consideration

7.5.10.1 Fundamental Purpose and Objectives

As discussed above in Section 5.3.1, *Alternatives Development and Screening Process*, DWR identified and screened a range of alternatives based on the project purpose and objectives, as defined in the NOP. The screening criteria were developed consistent with the legal requirements of CEQA and the project objectives included in the NOP published on January 15, 2020. The following alternatives did not pass the first of two screening filters and were rejected, as they do not meet most of the project's objectives:

- Dual Conveyance Tunnel with New Intakes at Fremont Weir and Decker Island
- Dual Conveyance with New Intakes at Decker Island
- Isolated Conveyance New Intakes at Fremont Weir and Decker Island
- Isolated Conveyance with San Joaquin River intake
- Western Delta Intake Concept
- SolAgra Water Solution
- Portfolio-Based Proposed including Water Conveyance Facilities
- Through-Delta Conveyance No New Diversion Facility (with Barriers)
- Through-Delta Conveyance with No New Diversion Facility—New Fish Handling Facilities at Clifton Court Forebay
- Portfolio Approach without Water Conveyance Facilities

- Integration of Water Conveyance with Other Projects

7.5.10.2 Other Feasibility/Policy Considerations

The following alternatives passed the first filter but did not pass the second filter, as they do not avoid or substantially lessen impacts compared to the alternatives evaluated in the EIR:

- Dual Conveyance East Canal
- Dual Conveyance West Canal
- Dual Conveyance with New Intakes at Sacramento Weir
- Isolated Conveyance Tunnel with Sacramento River Intakes
    - Isolated Conveyance West Canal with Sacramento River Intakes
    - Isolated Conveyance East Canal with Sacramento River Intakes
    - Isolated Conveyance East Canal with Feather River Intakes
- A Water Plan for All of California
- Alternative locations for diversion facilities along the Sacramento River in the north Delta

For the foregoing reasons, DWR rejects all the alternatives to the Project considered in the EIR, including the alternatives considered but rejected from further consideration in the EIR, as infeasible. As explained above, these alternatives would have greater environmental impacts compared to the Project and/or would not meet the project goals or objectives, or would not achieve them to the same degree as the Project, and/or are found to be infeasible on the basis of additional grounds discussed above. DWR further finds that, out of all of the alternatives considered, the Project strikes the optimal balance between attainment of project goals and objectives, competing environmental and economic impacts and benefits, and best achieves the coequal goals set forth in the Delta Reform Act of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem.

Chapter 8
Statement of Overriding Considerations

California Public Resources Code section 21081, subdivision (b), and CEQA Guidelines section 15093 provide that, when a public agency decision maker approves a project that will have significant, unavoidable environmental impacts identified in a final EIR, the decision maker must state in writing the reasons to support his, her, or its action based on the completed EIR and/or other information in the administrative record.

The Project's significant and potentially significant and unavoidable impacts, as described in the Final EIR are listed below prefaced by their identification number from the Final EIR. As explained in the Final EIR, several impacts have the potential to be less than significant after mitigation is implemented; however, due to uncertainty associated with the timing, nature, or need for other parties to participate in certain mitigation actions, DWR concluded the impact remain significant and unavoidable.

- Impact AG-1: Convert a Substantial Amount of Prime Farmland, Unique Farmland, Farmland of Local Importance, or Farmland of Statewide Importance as a Result of Construction of Water Conveyance Facilities
- Impact AG-2: Convert a Substantial Amount of Land Subject to Williamson Act Contract or under Contract in Farmland Security Zones to a Nonagricultural Use as a Result of Construction of Water Conveyance Facilities
- Impact AES-1: Substantially Degrade the Existing Visual Character or Quality of Public Views (from Publicly Accessible Vantage Points) of the Construction Sites and Visible Permanent Facilities and Their Surroundings in Nonurbanized Areas
- Impact AES-2: Substantially Damage Scenic Resources including, but Not Limited to, Trees, Rock Outcroppings, and Historic Buildings Visible from a State Scenic Highway
- Impact AES-3: Have Substantial Significant Impacts on Scenic Vistas
- Impact CUL-1: Impacts on Built-Environment Historical Resources Resulting from Construction and Operation of the Project
- Impact CUL-2: Impacts on Unidentified and Unevaluated Built-Environment Historical Resources Resulting from Construction and Operation of the Project
- Impact CUL-3: Impacts on Identified Archaeological Resources Resulting from the Project
- Impact CUL-4: Impacts on Unidentified Archaeological Resources That May Be Encountered in the Course of the Project
- Impact CUL-5: Impacts on Buried Human Remains
- Impact TRANS-1: Increased Average VMT Per Construction Employee versus Regional Average
- Impact AQ-5: Result in Exposure of Sensitive Receptors to Substantial Localized Criteria Pollutant Emissions

- Impact NOI-1: Generate a Substantial Temporary or Permanent Increase in Ambient Noise Levels in the Vicinity of the Project in Excess of Standards Established in the Local General Plan or Noise Ordinance, or Applicable Standards of Other Agencies
- Impact PALEO-2: Cause Destruction of a Unique Paleontological Resource as a Result of Tunnel Construction and Ground Improvement
- Impact TCR-1: Impacts on the Delta Tribal Cultural Landscape Tribal Cultural Resource Resulting from Construction, Operations, and Maintenance of the Project Alternatives
- Impact TCR-2: Impacts on Individual Tribal Cultural Resources Resulting from Construction, Operations, and Maintenance of the Project Alternatives

In the Director's judgment, the benefits of the Project, as set forth below, outweigh these significant and unavoidable impacts. The following statement identifies the reasons why, in the Director's judgment, the benefits of the Project as approved outweigh its significant and unavoidable impacts. Any one of these reasons is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, each additional reason would alone be sufficient to support the Director's determination. (See *Habitat and Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277, 1307-1308.) The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this section, and in the documents found above in Chapter 2, *Record of Proceedings*, as defined on pp. 2-1–2-2 herein.

The Project will improve California's water conveyance system in response to increased risks to water supply reliability as a result of, for example, risks from seismicity and climate change. The SWP supplies water to 27 million people in northern California, the Bay Area, the San Joaquin Valley, the Central Coast, and southern California. SWP water also irrigates about 750,000 acres of farmland, mainly in the San Joaquin Valley (Final EIR, Volume 1, Chapter 2, *Purpose and Project Objectives*, p. 2-1). The Delta has long been an important resource for California, providing municipal, industrial, agricultural and recreational uses, fish and wildlife habitat, and water supply to large portions of the State. By several key criteria, however, such as declines in populations of several fish species, seismic risk to levees and the Delta infrastructure, continuing land subsidence, and rising sea level, the Delta is now widely considered to be in crisis. The Legislature formally recognized this when it enacted a comprehensive package of water bills in 2009, including the Delta Reform Act: "The Sacramento-San Joaquin Delta watershed and California's water infrastructure are in crisis and existing Delta policies are not sustainable. Resolving the crisis requires fundamental reorganization of the state's management of Delta watershed resources." (California Water Code, § 85001, subd. (a).)

State policy regarding the Delta is summarized in the Delta Reform Act, which states: "[I]t is the intent of the Legislature to provide for the sustainable management of the Sacramento-San Joaquin Delta ecosystem, to provide for a more reliable water supply for the state, to protect and enhance the quality of water supply from the Delta . . . ." (*Id.*, § 85001, subd. (c)).

The Delta "serves Californians concurrently as both the hub of the California water system and the most valuable estuary and wetland ecosystem on the west coast of North and South America." (*Id*., § 85002.) For the Delta to continue to maintain these functions, the Legislature has determined that an improved water conveyance system is necessary. (*Id.*, § 85020, sub. (f); see also *id*., §§ 85304, 85320.) As discussed in Final EIR, Volume 1, Chapter 1, *Introduction*, Section 1.2.4, *Prior Delta Conveyance Planning Efforts*, the need for an improved conveyance system was identified based on

years of scientific study, extensive data gathered from various agencies and experts, and an elaborate process that involved agency and interested party input as well as robust public involvement.

Interested parties have recognized an urgent need, for both environmental and economic reasons, to improve and modernize the existing SWP conveyance system in the Delta, which was designed and built long before the advent of many current environmental laws, including the ESA, Clean Water Act (CWA), and CEQA (Final EIR, Volume 1, Chapter 1, *Introduction*, Section 1.2.4.4, *The Bay Delta Conservation Plan and California WaterFix*). Other factors, such as those described in the *Delta Risk Management Strategy (DRMS)* (California Department of Water Resources 2009), including the continuing subsidence of lands within the Delta, increasing risk of seismic activity and levee failures, and sea level rise and potentially wider variations in hydraulic conditions associated with climate change, serve to further exacerbate these conflicts. By adding redundancy to the Delta's water conveyance infrastructure through additional points of diversion in the North Delta, the project minimizes the risks associated with seismic threats to the current Delta water infrastructure and prevents or mitigates potentially significant economic losses to the state. Change to the existing conveyance system is necessary if California is to "[a]chieve the two coequal goals [for the Delta] of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem." (Pub. Resources Code, § 29702, subd. (a).)

The Director finds that, of all of the alternatives considered in the EIR, the Project most fully implements DWR's fundamental purpose to restore and protect the reliability of SWP water deliveries south of the Delta consistent with the State's Water Resilience Portfolio in a cost-effective manner and DWR's related objectives to address seismic risk, climate change, and regulatory constraints, and to attain operational flexibility consistent with statutory and contractual obligations. The Project will specifically result in the following benefits:

8.1 Restore and Protect the Reliability of SWP Water Deliveries South of the Delta by Addressing Seismic Risks

A seismic event could cause major damage to property, infrastructure, and the environment that could affect the entire state. The current SWP system relies heavily on natural channels within the Delta to convey water and is extremely vulnerable to seismic events because most land in the central Delta has subsided well below sea level. Many of the related Delta islands are currently below sea level due to factors including subsidence of underlying organic soils, with this subsidence expected to continue at a generalized rate of approximately 0.25 to 0.5 inch per year until the organic content is largely depleted (Deverel et al. 2016:5). If levees fail because of a seismic event, seawater intrusion from the western Delta could create salinity conditions that could require ceasing diversions from the SWP's current point of diversion in the south Delta. The Project would provide a water supply reliability benefit associated with earthquake risk that is not captured in Project modeling, as Project implementation would avoid having the SWP shut down or severely limit operations because of one or more levee breeches in the Delta. The capability of the Project to continue operations would improve the ability of SWP Delta facilities to function after a seismic event by operating diversion facilities north of existing SWP facilities. The operations of the project

would allow continued water supply diversions should south Delta export facilities become inoperable.

The probabilities of moderate to large earthquake events, and related damage to or failure of Delta area levees, are generally high and increasing over time. According to the United States Geological Survey (USGS), there is a 72 percent chance of a 6.7 or greater magnitude earthquake occurring in the Bay Area by 2043 (U.S. Geological Survey 2016:1). A major earthquake event could result in breaching or failure of existing levees within the Delta, with a substantial number of these structures exhibiting moderate to high failure probabilities (California Department of Water Resources 2009:10). This could result in significant amounts of saltwater being drawn into the Delta region, raising salinity levels and crippling the state's ability to deliver fresh water because of the location of the SWP's primary diversion in the south Delta. Of the over 1,100 miles of Delta levees, many are not in a condition to withstand significant shaking (Final EIR, Volume 1, Chapter 1, *Introduction*, Section 1.2.3.3, *Delta Levee Risk*). DWR has invested millions of dollars to reinforce many Delta levees through the Delta Levees Special Flood Control Projects and Delta Levees Maintenance Subventions programs and will continue to do so. However, even with levee improvements, the extensive Delta levee system will remain vulnerable to a major earthquake (Final EIR, Volume 1, Chapter 1, *Introduction*, Section 1.2.3.3, *Delta Levee Risk*). An earthquake could cause a possible outage in water supply delivery lasting anywhere from several months to several years to perform necessary levee repairs and restore salinity levels to where the SWP could resume normal operations. DWR has estimated that it may take 25 to 34 months to complete repairs of levees after a major seismic event in the Delta (California Department of Water Resources 2009:10). Cessation of SWP operations of this magnitude would have catastrophic social and economic effects, including a loss of water necessary for public health and safety (Final EIR, Volume 1, Chapter 1, *Introduction*, Section 1.2.3.1, *California Water Supply*). Each year without "A Big One," the risk of disruption from a major earthquake significantly increases. The Pacific Ocean's plate moves 50 millimeters per year making California overdue for a major earthquake event (California Department of Water Resources 2023a). Although no one can definitively say exactly when a major seismic event would occur, experts agree that it is not a matter of "if," but a matter of "when" (U.S. Geological Survey 2016). The Project would allow continued water deliveries and operational flexibility in the event of a catastrophic levee failure from seismic activity that could temporarily disrupt water supply or affect water quality.

8.2 Restore and Protect the Reliability of SWP Water Deliveries South of the Delta by Addressing Reasonably Foreseeable Consequences of Climate Change and Extreme Weather Events

The Project is part of the state's strategy in adapting the SWP water supply to climate change. As described in Final EIR, Volume 1, Chapter 30, *Climate Change*, projected future conditions under climate change, such as higher average temperature and more extreme variability in annual precipitation patterns, is anticipated to further diminish overall water supply and reliability of water delivery. Climate change is already taking a toll on California's water supplies in the form of more frequent and more severe droughts. A warmer atmosphere would modify precipitation and runoff patterns and affect extreme hydrologic events like floods and droughts. It is anticipated that droughts would increase in severity and duration, resulting in periods of critical dryness, further

reducing Delta inflows during these dry periods. At the same time, associated increases in the frequency and severity of flashy storms in the cool season could increase high-flow events and flood risk in the Delta. These trends clearly point to the need for alternate methods of water diversion and conveyance to effectively respond to changing water flow regimes under future climate change. In this context, DWR considers capture and conveyance in the Delta as important potential adaptations in protecting the SWP from future climatic change and mitigating system losses due to changing precipitation patterns and seasonal runoff. Having alternative points of diversion in the north Delta would increase resiliency in managing combined effects of sea level rise, including potential impacts on Delta morphology, and changes to timing and quantity of seasonal runoff. As water demand and supply challenges continue to increase, the Project is designed to enhance resilience to climate change impacts and ensure safe and reliable water deliveries continue far into the future (California Department of Water Resources 2023b). As described in Final EIR, Volume 1, Appendix 30A, *CalSim 3 Results Sensitivity to 2040 Climate Change and Sea Level Projections*, the Project would be able to operate to substantially lessen climate change impacts on SWP supplies under a drier climate with less long-term average precipitation when hydrologic conditions and the operational criteria allow diversions while meeting regulatory requirements for the protection of water quality and sensitive fish in the Delta.

As discussed in Final EIR, Volume 1, Chapter 30, *Climate Change*, the Project would make California's water system more resilient by augmenting the ability to capture increased winter flows and high flows from flashy storms to supply water during dry months. The Project provides an alternative diversion point in the north Delta for Delta exports, adding management flexibility and increases in SWP deliveries during long-term average, dry, and critical water years. The inability of the existing SWP to divert periodic and significant excess flows when southern Delta pumping is currently restricted represents a substantial lost opportunity to provide critically needed water supplies at a time when inflow to the Delta far exceeds that needed to meet biological and water quality regulatory objectives. When there are excess flows in the system, the north Delta intakes would be used to capture additional excess flows when the south Delta exports are limited and not able to capture those flows.

For instance, if the Project had been operational during the big storms in winter 2021-2022, DWR could have captured and moved about 236,000 acre-feet of water (California Department of Water Resources 2022), which is equivalent to approximately 40 percent of total SWP exports in water year 2022.

In October 2021, when high storm flows came and went quickly, the existing infrastructure and requirements for SWP operations limited the ability to capture these flows. In other words, the current configuration of the SWP is not sufficient to capture high and flashy flows, like those from the October 2021 storm. Additionally, in December 2021 and January 2022, to protect sensitive fish from getting pulled into less habitable parts of the Delta, pumping of water from the south Delta was limited, even when there was an abundant amount of water in the north Delta from storm events (California Department of Water Resources 2022).

The inability of the SWP to divert these excess flows represents a substantial lost opportunity to help recover from multiple years of drought. If the Delta Conveyance Project had been operational during those storms, the SWP would have been able to capture more water, while still meeting water quality standards and protecting sensitive fish, and move and store this much-needed water for later use in the summer or fall.

8.3 Restore and Protect the Reliability of SWP Water Deliveries South of the Delta by Addressing Sea Level Rise

Global mean sea level has risen approximately 7.87 inches (0.2 meters) from 1901 to 2018, affecting high tide events and salinity levels in the Delta (Final EIR, Volume 1, Chapter 30, *Climate Change*, pp. 30-6–30-7). It is "virtually certain" that substantial sea level rise will occur by the end of the century, although the rate and degree of increase remains uncertain (e.g., at the San Francisco Bay, the 50th percentile change in projected sea level rise by 2100 under the Representative Concentration Pathway 8.5 (high emissions) modeling scenario is 2.5 feet, but it is 1.6 feet under the RCP 2.6 modeling scenario) (California Natural Resources Agency and Ocean Protection Council 2018:57). The Project would operate under different sea level rise conditions and would allow adaptation to sea level rise and potential changes in hydrologic conditions associated with climate change. As described in Final EIR, Volume 1, Appendix 6A, *Water Supply 2040 Analysis*, indicate that long-term average annual SWP deliveries under the future No Project Alternative under the 2040 scenario, which includes sea level rise of 1.8 feet at the San Francisco Bay—considered extreme for the year 2040 (California Natural Resources Agency and Ocean Protection Council 2018:57)—could decline by approximately 236,000 acre-feet compared to existing conditions and that implementing the Project under the 2040 scenario would increase long-term average annual SWP deliveries by approximately 287,000 acre-feet compared to existing conditions. This analysis shows that the Project would improve SWP water supply reliability under current and future conditions, including extreme high sea level rise.

In addition, the Project is being built with consideration of climate change by designing according to modeled conditions and thus is expected to have a low level of risk for direct climate change effects such as sea level rise. The Project would likely remain functional well into the future, when salinity intrusion may prevent use of the south Delta pumps. As described in Final EIR, Volume 1, Appendix 5A, *Modeling Technical Appendix*, studies demonstrate that the proposed north Delta intakes would not be vulnerable to saltwater intrusion even with an extreme high sea level rise of up to 10.2 feet at Golden Gate Bridge in the San Francisco Bay. Therefore, even in the face of extreme sea level rise, the north Delta intakes would continue to be operable. Additionally, compounding effects of climate change, including increasing stress on supply to meet demand under warmer temperatures, or increasing need for water releases to maintain water quality requirements, may affect the long-term reliability of Delta exports (Delta Stewardship Council 2021:5-55–5-58). By adding intakes along the Sacramento River (where they are less vulnerable to sea level rise compared to the existing south Delta export facilities), the Project allows for operational flexibility to respond to changing conditions in the Delta (Final EIR, Volume 1, Chapter 30, *Climate Change*, p. 30-26). This increased flexibility would allow managers in the SWP system more options for adaptively managing resources to optimize benefits across water uses and provide more reliable water supplies that would benefit areas receiving deliveries (Final EIR, Volume 1, Chapter 30, *Climate Change*, p. 30-26).

8.4 Protect and Benefit California's Economy

8.4.1 Benefits of Project Operations to the State's Economy

Water supplied by the SWP has benefits for the entire state and has helped California become the fifth largest economy in the world, and the Project will provide protections and benefits to California's economy. California cities that receive water from the Delta, including areas within the Bay Area and Silicon Valley, as well as Central and Southern California, produce hundreds of billions of dollars' worth of goods and services each year. A functioning water delivery system—one that can maximize reliable supplies within regulatory limits and withstand the impacts of climate change and earthquakes—is critical to business growth and job creation. Despite statewide efforts to improve water conservation, recycling, groundwater management, and build the resilience of local water systems across the state, the SWP remains a critical component to California's water system and serves as a foundation for important local water supplies and resiliency programs. While water conservation and local water supply options have made and are anticipated to continue to make significant strides into the future, the Project is critical to protect the reliability of the SWP as an important water stabilization source for the State. Participating public water agencies' existing and continued activities to improve local self-reliance and to use California's water resources efficiently and sustainably are important components of their water supply portfolios, but these actions cannot wholly replace SWP supplies (California Natural Resources Agency et al. 2020:113). The Project is one component of the statewide portfolio approach needed to meet California's overall water management needs and failure to protect the SWP from future changes would put California's water supply and economy at risk.

In the absence of the Project, the negative economic impact of water export cutbacks would be felt statewide. Drought conditions in recent years have already demonstrated that existing, and reasonably foreseeable future, local sources, particularly in areas such as Southern California, will not be able to sustain over the long term in the face of shortages from supplies such as the SWP. Given the high cost of securing water to keep up with demand satisfied through Delta exports, there is a statewide economic benefit extending to potentially billions of dollars, depending on export levels in the future without the Project. Increasing the reliability of water deliveries can reduce costs to water providers and users in the SWP service areas if they are able to use the SWP supply to avoid more costly supplies.

In addition, California is the agricultural powerhouse of the United States—leading all other states in farm income. Improved agricultural water supply and reliability can keep land in production and would support more stable (and potentially larger) agricultural acreage, enable broader crop selection, and reduce cost and risk associated with uncertain water deliveries. During dry and critical water conditions, additional supply can reduce land idling and reduce the cost of replacement supply (Final EIR, Volume 1, Chapter 17, *Socioeconomics*, p. 17-88). More reliable agricultural water supply would also benefit the local farm economy, including seasonal and permanent on-farm employment, and will protect employment in industries closely associated with agricultural production such as food processing, agricultural inputs, and transportation (Final EIR, Volume 1, Chapter 17, *Socioeconomics*, p. 17-88).

The community character of rural regions receiving SWP water supply is closely tied to agriculture, so improvements in water supply reliability could support the current social activities and character. The range of agricultural water supply likely provided by the Project would not induce

new agricultural production, but the improved reliability would contribute to and reinforce existing economic and social patterns and institutions. Greater stability of the local economy would also benefit local government fiscal conditions (Final EIR, Volume 1, Chapter 17, *Socioeconomics*, p. 17-88).

The increased amount and reliability of urban water supply is expected to be used to accommodate population and economic growth that the urban regions are already planning for and to offset other, more costly supplies that would otherwise be used or developed. Final EIR, Volume 1, Chapter 31, *Growth Inducement*, Section 31.2.3.3, *Indirect Growth Inducement Effects Associated with Stabilized Water Deliveries*, describes how the water deliveries will accommodate existing or already planned uses (Final EIR, Volume 1, Chapter 17, *Socioeconomics*, p. 17-88).

8.4.2 Benefits of Project Construction to the State's Economy

Public infrastructure projects such as the Project are essential to many facets of the economy, typically providing a substantial socioeconomic benefit. The construction of the Project will create 3,086 new construction jobs during the peak construction year (Final EIR, Volume 1, Chapter 17, *Socioeconomics*, p. 17-61), and will generate revenue in a range of other sectors due to multiplier effects as spending made locally in connection to Project construction moves through the Delta economy and other regions of California. For example, new earned revenue by businesses and workers are in some portion spent back into local economies which will stimulate additional spending in the form of new hires, more pay for workers, renovations, or other goods or services. It is anticipated that the majority of these new jobs would be filled from within the existing labor force in the region. The construction of the Project is therefore likely to result in a substantial number of new jobs and economic activity, much of which will be concentrated in the Delta region.

8.5 Provide SWP Operational Flexibility and Better Manage Risks of Further Regulatory Constraints on Project Operations

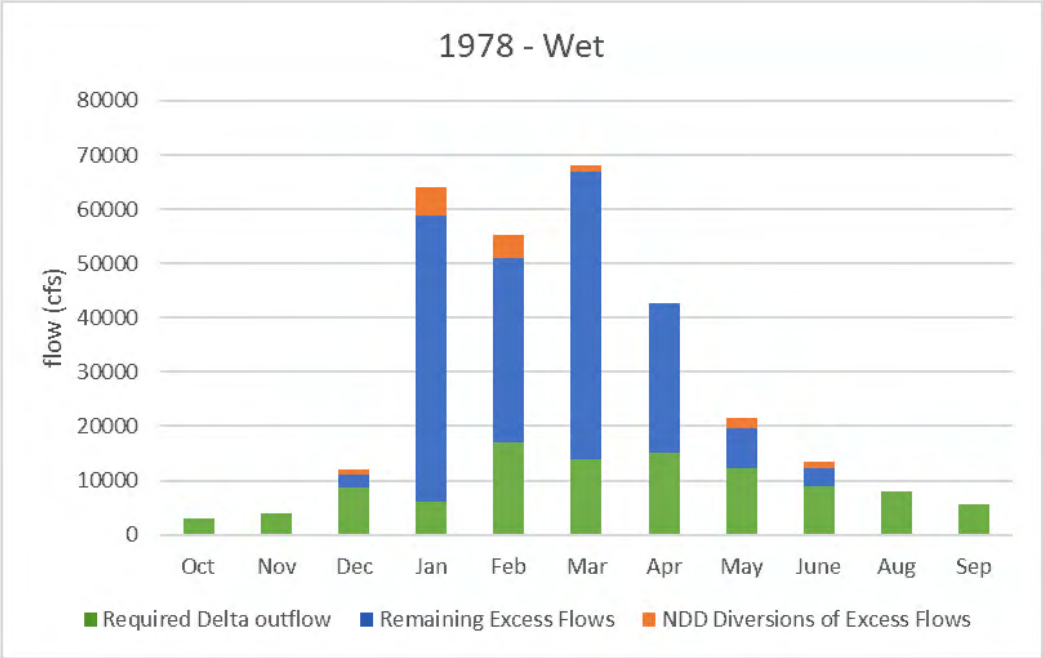
Since the SWP became operational, SWP operations have changed largely in response to regulatory changes intended to better protect fish and wildlife resources in the Delta, as described in Final EIR, Volume 1, Chapter 1, *Introduction*, Section 1.2.3.4, *Regulatory Environment*. In recent years, water diversions at the existing south Delta facilities have been limited during certain times of the year to protect aquatic resources, which has considerably reduced the long-term average amounts of water conveyed through the south Delta and has resulted in overall reduced and less reliable water supply for SWP users. These pumping restrictions applied by regulatory agencies to address water quality and aquatic species concerns at the south Delta diversion continue to prevent the SWP from reliably capturing water when it is available, especially from storm events. Constraints on groundwater use imposed by the Sustainable Groundwater Management Act of 2014 could also increase the need for reliable SWP surface water supplies over time.

As described in Final EIR, Volume 1, Chapter 6, *Water Supply*, modeled long-term average annual SWP deliveries under the Project would increase by 15% when compared to existing conditions. Additionally, analyses in Final EIR, Volume 1, Appendix 6A, *Water Supply 2040 Analysis*, indicate that long-term average annual SWP deliveries under the future No Project Alternative under the 2040

scenario could decline by approximately 236,000 acre-feet compared to existing conditions and that implementing the Project under the 2040 scenario conditions—including extreme high sea level rise of 1.8 feet at the San Francisco Bay—would increase long-term average annual SWP deliveries by approximately 287,000 acre-feet compared to existing conditions. These analyses show that the Project would improve SWP water supply reliability under current and future conditions. Further, increased delivery may simply restore average contract deliveries that have been affected because of regulatory rules and operational agreements or could be used to supplement or reduce groundwater use under the Sustainable Groundwater Management Act.

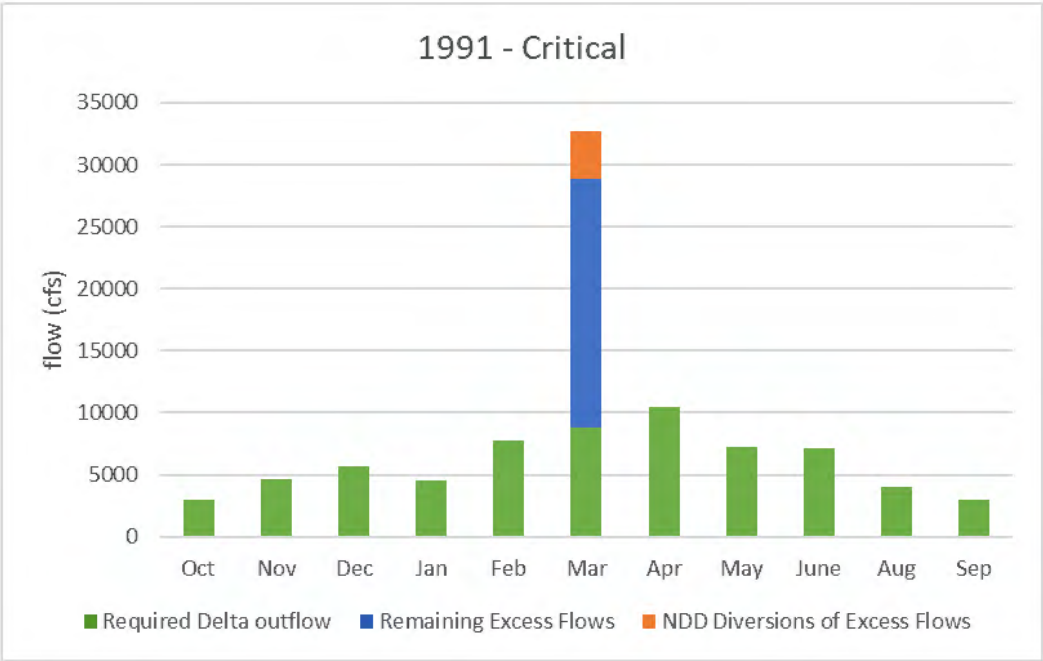
The Project will increase the options available to SWP operators to more effectively balance the Bay-Delta system in real-time to protect all beneficial uses of water whether for water supply, water quality, or fishery protection purposes. The proposed intakes would augment the ability to capture excess flows and improve the flexibility of the SWP operations, such as for meeting the State Water Board D-1641 Delta salinity requirements. For example, during the late spring, summer, and fall, when the SWP is typically operating to meet State Water Board D-1641 salinity requirements in the Delta, both the existing south Delta intakes and the proposed north Delta intakes would be operated together to meet these salinity requirements. The south Delta exports and the north Delta diversions would be balanced and adjusted to meet the State Water Board D-1641 salinity requirements at the western Delta stations on the Sacramento and San Joaquin Rivers (e.g., increasing salinity at Jersey Point would cause a shift in diversions from south Delta to north Delta, whereas increasing salinity at Emmaton would cause a shift from north Delta to south Delta). This operation is expected to result in a more efficient system operation where less water would be required to meet the same water quality standards and result in additional water that could either remain in storage or be exported.

Additionally, the below figures, based on substantial evidence in the administrative record, also demonstrate how the project would operate during certain hydrologic conditions by diverting excess water during high-flow events and help provide a more reliable water supply responsive to changing weather conditions and rainfall patterns. These diversion examples created by DWR demonstrate the frequency and magnitude of diversions that could occur when excess flows occur after all other applicable Delta outflow requirements are met. These series of figures also demonstrate that there may be sufficient water in the river to divert at different times within each water year type and across all water year types, including critical years.



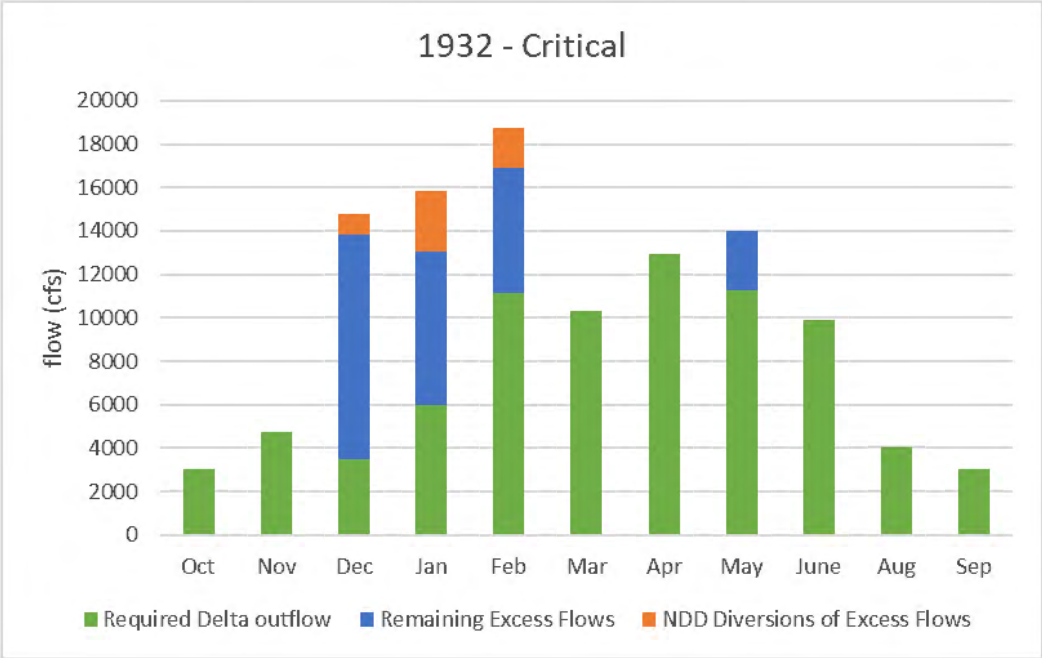
Note: Required outflow includes water to meet minimum required Delta outflows, X2, and salinity, including carriage water for wheeling and transfers.

Figure 1: 1978 – Wet Water Year Type and Operations of North Delta Diversions



Note: Required outflow includes water to meet minimum required Delta outflows, X2, and salinity requirements, including carriage water for wheeling and transfers.

Figure 2: 1991 – Critical Water Year Type and Operations of North Delta Diversions



Note: Required outflow includes water to meet minimum required Delta outflows, X2, and salinity, including carriage water for wheeling and transfers.

Figure 3: 1932 – Critical Water Year Type and Operations of North Delta Diversions

Furthermore, the addition of the north Delta intakes would also provide operational flexibility that could improve conditions for aquatic species by, among other things, allowing operators to divert water at times and places—in either the north or the south—that protect those species at sensitive life stages. Use of the north Delta intakes to improve conditions for sensitive aquatic species in the southern Delta could occur when reducing south Delta exports at Clifton Court Forebay would benefit sensitive fish species in the south Delta without causing fish effects at the proposed north Delta intakes. In this circumstance, use of the north Delta intakes would result in further reduction in south Delta SWP exports beyond the reduction that would otherwise have occurred based on the permitted south Delta regulatory criteria. For example, if the south Delta criteria allow 3,500-cfs SWP exports at Clifton Court Forebay and if there is a circumstance that would be beneficial to sensitive aquatic protection to instead divert a portion of the exports from the proposed north Delta intakes, then SWP exports at south Delta export facilities would be less than 3,500 cfs, and the remaining allowable exports would be diverted from the north Delta. This procedure, which could be used under limited circumstances (and decisions to shift would be in coordination with regulatory agencies), would provide increased flexibility to meet water supply and aquatic species needs.

Chapter 9
Summary of Conclusions

By this Statement of Overriding Considerations, the Director of DWR finds that the remaining significant and unavoidable environmental impacts of the Project, summarized herein, are acceptable in light of the environmental, economic, legal, social, technological, and/or other considerations set forth herein, because the benefits of the Project outweigh its significant and unavoidable environmental impacts.

The Director declares that DWR has adopted all feasible mitigation measures to reduce the Project's environmental impacts; considered the entire administrative record, including the Final EIR; and weighed the Project's benefits against its environmental impacts. After doing so, the Director has determined that the Project's benefits outweigh its environmental impacts, and deems them acceptable, consistent with CEQA Guidelines section 15093.

Chapter 10
References Cited

California Department of Water Resources. 2002. Appendix D, SWP Historical Deliveries (1967–2002). In *The State Water Project Delivery Reliability Report 2002*. Sacramento, CA.

California Department of Water Resources. 2008a. Appendix D, Recent State Water Project Deliveries. In *The State Water Project Delivery Reliability Report 2007*. Sacramento, CA.

California Department of Water Resources. 2008b. *Risk Analysis Report (Final): Delta Risk Management Strategy (DRMS) Phase 1*. December 8. Prepared by URS Corporation/Jack R. Benjamin and Associates, Inc.

California Department of Water Resources. 2009. *Delta Risk Management Strategy*. February. Sacramento, CA. Available: https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/docs/SJRECWA/sjrecwa_3.pdf. Accessed: December 11, 2023.

California Department of Water Resources. 2018. *Mean and Extreme Climate Change Impacts on the State Water Project*. California's Fourth Climate Change Assessment. Publication number: CCCA4-EXT-2018-004. Prepared by Wang, J., H. Yin, J. Anderson, E. Reyes, T. Smith, and F. Chung. Available: https://www.energy.ca.gov/sites/default/files/2019-12/Water_CCCA4-EXT-2018-004_ada.pdf. Accessed: December 12, 2023.

California Department of Water Resources. 2020. *The State Water Project Delivery Capability Report 2019*. Available: https://www.ccwa.com/files/75a926999/2019_final_dcr_DWR.pdf. Accessed: December 11, 2023.

California Department of Water Resources. 2022. *Big Storms, Dry Spells, Demonstrate the Need for Improved Infrastructure and the Delta Conveyance Project*. April 20. Sacramento, CA. Available: https://water.ca.gov/News/Blog/2022/April-22/Big-Storms-Dry-Spells-Demonstrate-the-Need-for-Improved-Infrastructure. Accessed: December 11, 2023.

California Department of Water Resources. 2023a. *How the Delta Conveyance Project Would Make California's Water Supply More Resilient Against Earthquakes*. July 24. Sacramento, CA. Available: https://water.ca.gov/News/Blog/2023/July-23/How-Delta-Conveyance-Project-Makes-California-Water-Supply-More-Resilient. Accessed: December 11, 2023.

California Department of Water Resources. 2023b. *Technical Memorandum for Delta Conveyance Project: CalSim 3 Results for 2070 Climate Change and Sea Level Projections*. Prepared by Stantec (under DWR Contract 4600013424), Sacramento, CA.

California Natural Resources Agency and Ocean Protection Council. 2018. *State of California Sea-Level Rise Guidance: 2018 Update*. Sacramento, CA. Available: https://opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180314/Item3_Exhibit-A_OPC_SLR_Guidance-rd3.pdf. Accessed: December 11, 2023.

California Natural Resources Agency, California Environmental Protection Agency, and California Department of Food and Agriculture. 2020. *California Water Resilience Portfolio*. Final. CA. Available: https://resources.ca.gov/-/media/CNRA-Website/Files/Initiatives/Water-

Resilience/Final_California-Water-Resilience-Portfolio-2020_ADA3_v2_ay11-opt.pdf. Accessed: December 11, 2023.

Delta Conveyance Design and Construction Authority. 2022. *Volume 1: Delta Conveyance Final Draft Engineering Project Report—Central and Eastern Options*. May 2022. Sacramento, CA.

Delta Stewardship Council. 2015. Appendix 1b. In *Delta Plan*. Available: https://deltacouncil.ca.gov/pdf/delta-plan/2015-appendix-1b.pdf. Accessed: December 11, 2023.

Delta Stewardship Council. 2021. *Delta Adapts: Creating a Climate Resilient Future—Sacramento–San Joaquin Delta Climate Change Vulnerability Assessment*. Prepared by J. Henderson., H. L. Ross, A. Schwarz, A. Livengood, A. Keeley, D. Chapple, C. Copeland, K. Griffith, D. Constable, E. Mullin, A. Merritt, and M. Williams. June. Sacramento, CA. Available: https://deltacouncil.ca.gov/pdf/council-meeting/meeting-materials/2021-6-26-June-2021-Delta-Adapts-Vulnerability-Assessment.pdf. Accessed: December 11, 2023.

Deverel, S. J., S. Bachand, S. J. Brandenberg, C. E. Jones, J. P. Stewart, and P. Zimmaro. 2016. Factors and Processes Affecting Delta Levee System Vulnerability. *San Francisco Estuary and Watershed Science* 14(4). Available: https://escholarship.org/uc/item/36t9s0mp. Accessed: December 11, 2023.

Santa Clara Valley Water. 2022. *State Water Project*. Available: https://www.valleywater.org/your-water/where-your-water-comes/imported-water/state-water-project. Accessed: December 11, 2023.

U.S. Geological Survey. 2016. *Earthquake Outlook for the San Francisco Bay Region 2014–2043*. Fact Sheet 2016–3020. Revised August 2016 (ver. 1.1). Available: https://pubs.usgs.gov/fs/2016/3020/fs20163020.pdf. Accessed: December 11, 2023.

Exhibit A

CEQA Findings of Fact for the Project's Significant and Unavoidable Impacts, Impacts that are Less Than Significant after Mitigation and Impacts that are Less Than Significant/No Impact

Table 1: CEQA Findings of Fact for Significant and Unavoidable Project Impacts

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Adopted Mitigation Measures	Impact Conclusion After Mitigation- CEQA	Findings of Fact
Agricultural Resources				
Impact AG-1: Convert a Substantial Amount of Prime Farmland, Unique Farmland, Farmland of Local Importance, or Farmland of Statewide Importance as a Result of Construction of Water Conveyance Facilities	Significant	MM AG-1: Preserve Agricultural Land	Significant and Unavoidable	Mitigation Measure AG-1: Preserve Agricultural Land would reduce the extent of the remaining impacts that could not be avoided through careful project planning. However, these impacts would remain significant and unavoidable after implementation of the mitigation measures because conservation of agricultural farmland through acquisition of agricultural conservation easements, even at a ratio of 1:1 or greater, would not avoid a net loss of Important Farmland in the study area. Findings: Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid, the significant environmental effect as identified in the Final EIR. Impacts are therefore significant and unavoidable despite the adoption of feasible mitigation measures.
Impact AG-2: Convert a Substantial Amount of Land Subject to Williamson Act Contract or under Contract in Farmland Security Zones to a Nonagricultural Use as a Result of Construction of Water Conveyance Facilities	Significant	MM AG-1: Preserve Agricultural Land	Significant and Unavoidable	Project facilities would result in permanent conversion of around 1,100 acres of land under Williamson Act contract. There is projected to be temporary or permanent conversion of approximately 39 acres of agricultural land within a Farmland Security Zone under the Project. The permanent impacts on land under contract with Farmland Security Zone would be associated with the shaft sites and new overhead power transmission lines, while the temporary impacts would result from work associated with geotechnical exploration sites and underground installation of utility lines. DWR would comply with all applicable provisions of California Government Code Sections 51290–51295 as they pertain to acquiring lands subject to Williamson Act contract. Findings: Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid, the significant environmental effect as identified in the Final EIR. Impacts are therefore significant and unavoidable despite the adoption of feasible mitigation measures.
Aesthetics and Visual Resources				
Impact AES-1: Substantially Degrade the Existing Visual Character or Quality of Public Views (from Publicly Accessible Vantage Points) of the Construction Sites and Visible Permanent Facilities and Their Surroundings in Nonurbanized Areas	Significant	MM AES-1a: Install Visual Barriers between Construction Work Areas and Sensitive Receptors MM AES-1b: Apply Aesthetic Design Treatments to Project Structures MM AES-1c: Implement Best Management Practices in Project Landscaping Plan	Significant and Unavoidable	Construction of the Project would substantially affect the existing visual quality and character present in the study area from public roads, residences, and areas of visual effect in the vicinity of project sites. Contributing to this impact would include the long-term nature of facility construction at all of the major project sites and visibility of heavy construction equipment in the proximity to sensitive vantage points; removal of residences and agricultural buildings; removal of riparian vegetation and other mature vegetation or landscape plantings; earthmoving and grading that result in changes to topography in areas that are predominantly flat, as well as dust generation; addition of large-scale industrial-looking structures (e.g., intakes, pumping plants, discharge structures and related facilities); remaining presence of large-scale reusable tunnel material (RTM) area landscape effects; and introduction of tall lattice steel transmission towers. Because of the combined effect of multiple and concurrent

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Adopted Mitigation Measures	Impact Conclusion After Mitigation- CEQA	Findings of Fact
				construction sites on localized views, the length of time construction would occur, and the changes permanent facilities would have on multiple short- and long-range views in the study area and high viewer sensitivity, this impact is considered to be significant at several sites, as shown in Table 18- 14. This conclusion also takes into consideration the Project's visual effects in a large Delta landscape. Although in a regional context the Project would affect a relatively small portion of the Delta limited to the distinct and discrete project sites, construction and permanent facility changes in visual quality and character would be substantially reduced in a number of locations in the study area. Findings: Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid, the significant environmental effect as identified in the Final EIR. Impacts are therefore significant and unavoidable despite the adoption of feasible mitigation measures.
Impact AES-2: Substantially Damage Scenic Resources including, but Not Limited to, Trees, Rock Outcroppings, and Historic Buildings Visible from a State Scenic Highway	Significant	MM AES-1b: Apply Aesthetic Design Treatments to Project Structures MM AES-1c: Implement Best Management Practices in Project Landscaping Plan	Significant and Unavoidable	Because visual elements associated with the Project would conflict with the existing forms, patterns, colors, and textures along State Route (SR) 160; would dominate riverfront views available from SR 160; and would alter broad views and the general nature of the visual experience presently available from SR 160 (thereby permanently damaging the scenic resources along a state scenic highway), these impacts are considered significant. Mitigation Measures AES-1b: Apply Aesthetic Design Treatments to Project Structures and AES-1c: Implement Best Management Practices in Project Landscaping Plan would help reduce these impacts through the application of aesthetic design treatments to all structures, to the extent feasible. However, impacts on visual resources resulting from damage to scenic resources that may be viewed from a state scenic highway would not be reduced to a less-than-significant level because even with Mitigation Measures AES-1b and AES-1c 17 the overall view from SR 160 to the location of intakes would change from open agricultural land to a large industrial-type facility. There would be noticeable to very noticeable changes to the visual character of a state scenic highway viewshed that do not blend or are not in keeping with the existing visual environment based upon the viewer's location in the landscape relative to the visible change. Thus, overall, this impact would be significant and unavoidable. Findings: Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid, the significant environmental effect as identified in the Final EIR. Impacts are therefore significant and unavoidable despite the adoption of feasible mitigation measures.
Impact AES-3: Have Substantial Significant Impacts on Scenic Vistas	Significant	MM AES-1a: Install Visual Barriers between Construction Work Areas and Sensitive Receptors MM AES-1b: Apply Aesthetic Design Treatments to Project Structures MM AES-1c: Implement Best Management Practices in Project Landscaping Plan	Significant and Unavoidable	The Project would include some facilities or components that would result in significant and unavoidable impacts on existing visual quality and character within the study area including scenic vistas. Mitigation Measures AES-1a: Install Visual Barriers between Construction Work Areas and Sensitive Receptors, AES-1b: Apply Aesthetic Design Treatments to Project Structures, and AES-1c: Implement Best Management Practices in Project Landscaping Plan would reduce scenic vista impacts in the same way described for effects on visual quality and character. Overall, not all impacts would be reduced to a less-than-significant level because, although environmental commitments and mitigation measures would reduce some aspects of the impact on scenic vistas, these measures would only partially reduce effects for the same reasons described for Impact AES-1. Findings: Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid, the significant environmental effect as identified in the Final EIR. Impacts are therefore significant and unavoidable despite the adoption of feasible mitigation measures.

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Adopted Mitigation Measures	Impact Conclusion After Mitigation- CEQA	Findings of Fact
Cultural Resources				
Impact CUL-1: Impacts on Built-Environment Historical Resources Resulting from Construction and Operation of the Project	Significant	MM CUL-1a: Avoid Impacts on Built-Environment Historical Resources through Project Design MM CUL-1b: Prepare and Implement a Built-Environment Treatment Plan in Consultation with Interested Parties	Significant and Unavoidable	Construction of project features may require physical alteration of 7 built-environment historical resources. Construction may also result in changes to the setting of 7 built-environment historical resources. Both material alterations to the integrity of materials, design, or workmanship, as well as material alterations to the integrity of setting, feeling, or association would impact the historical resource by removing character-defining features of the resource or altering the resource's character, resulting in an impairment of the resource's ability to convey its significance. For these reasons this would be a significant impact. Mitigation Measure CUL-1a: Avoid Impacts on Built-Environment Historical Resources through Project Design and Mitigation Measure CUL-1b: Prepare and Implement a Built Environment Treatment Plan in Consultation with Interested Parties may mitigate these effects but cannot guarantee they would be entirely avoided. The scale of the Project and the constraints imposed by other environmental resources would make avoidance of all significant impacts unlikely. For these reasons, even with MM CUL-1a and MM CUL-1b, this impact would be significant and unavoidable. All mitigation will be completed under the oversight of individuals who meet the Secretary of the Interior Professional Qualifications Standards and have demonstrable experience conducting the recommended measures (MM CUL-1a and MM CUL-1b). Findings: Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid, the significant environmental effect as identified in the Final EIR. Impacts are therefore significant and unavoidable despite the adoption of feasible mitigation measures.
Impact CUL-2: Impacts on Unidentified and Unevaluated Built-Environment Historical Resources Resulting from Construction and Operation of the Project	Significant	MM CUL-2: Conduct a Survey of Inaccessible Properties to Assess Eligibility and Determine Whether These Properties Will Be Adversely Affected by the Project	Significant and Unavoidable	Construction of project facilities may require the alteration of built-environment historical resources. Construction may also result in material alterations to the integrity of feeling, setting, or association. Changes to the setting would be material alterations because they would either remove the resource or alter the resource's character, resulting in a diminishment of the resource's ability to convey its significance. For these reasons this would be a significant impact. Mitigation Measure CUL-2: Conduct a Survey of Inaccessible Properties to Assess Eligibility and Determine Whether These Properties Will Be Adversely Affected by the Project may mitigate these impacts, but cannot guarantee they would be entirely avoided. The scale of the Project and the constraints imposed by other environmental resources make avoidance of all significant impacts unlikely. For these reasons, even with MM CUL-2, this impact would be significant and unavoidable. Findings: Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid, the significant environmental effect as identified in the Final EIR. Impacts are therefore significant and unavoidable despite the adoption of feasible mitigation measures.
Impact CUL-3: Impacts on Identified Archaeological Resources Resulting from the Project	Significant	MM CUL-3a: Prepare and Implement an Archaeological Resources Management Plan MM CUL-3b: Conduct Cultural Resources Sensitivity Training MM CUL-3c: Implement Archaeological Protocols for Field Investigations	Significant and Unavoidable	Field investigations and construction of conveyance facilities would affect identified archaeological resources that occur in the footprint of the Project. This impact would be significant because construction would materially alter or destroy the spatial associations between these resources and their archaeological data, which has the potential to yield information useful in archaeological research and is the basis for the significance of these resources. Identified but currently inaccessible resources may also be significant under other California Register of Historical Resources (CRHR) criteria. Mitigation Measure CUL-3a: Prepare and Implement an Archaeological Resources Management Plan, Mitigation Measure CUL-3b: Conduct Cultural Resources Sensitivity Training, and Mitigation Measure CUL-3c: Implement Archaeological Protocols for Field Investigations would mitigate this impact by training personnel and recovering scientifically important material prior to construction through the sensitive area, but would not guarantee that all of the scientifically consequential

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Adopted Mitigation Measures	Impact Conclusion After Mitigation- CEQA	Findings of Fact
				information would be retrieved because feasible archaeological excavation typically only retrieves a sample of the deposit, and portions of the site with consequential information may remain after treatment. Construction could damage these remaining portions of the deposit. Therefore, even with mitigation, this impact would be significant and unavoidable. Findings: Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid, the significant environmental effect as identified in the Final EIR. Impacts are therefore significant and unavoidable despite the adoption of feasible mitigation measures.
Impact CUL-4: Impacts on Unidentified Archaeological Resources That May Be Encountered in the Course of the Project	Significant	MM CUL-3a: Prepare and Implement an Archaeological Resources Management Plan MM CUL-3b: Conduct Cultural Resources Sensitivity Training MM CUL-3c: Implement Archaeological Protocols for Field Investigations	Significant and Unavoidable	Construction has the potential to disturb previously unidentified archaeological resources qualifying as historical resources or unique archaeological resources. Because direct excavation, compaction, or other disturbance may disrupt the spatial associations that contain scientifically useful information, these activities would alter the potential basis for eligibility, thus materially altering the resource and resulting in a significant impact. Because these resources would not be identified prior to construction, they cannot be recorded, and impacts cannot be managed through construction treatment. Mitigation Measures CUL-3a: Prepare and Implement an Archaeological Resources Management Plan, CUL-3b: Conduct Cultural Resources Sensitivity Training, and CUL-3c: Implement Archaeological Protocols for Field Investigations would reduce the potential for this impact by implementing monitoring and discovery protocols and providing training to all personnel involved in ground-disturbing activities. However, because archaeological resources may not be identified through these measures prior to disturbance, the effect cannot be entirely avoided. Therefore, this impact would remain significant and unavoidable because resource locations and extents are unknown. Findings: Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid, the significant environmental effect as identified in the Final EIR. Impacts are therefore significant and unavoidable despite the adoption of feasible mitigation measures.
Impact CUL-5: Impacts on Buried Human Remains	Significant	MM CUL-3a: Prepare and Implement an Archaeological Resources Management Plan MM CUL-3b: Conduct Cultural Resources Sensitivity Training MM CUL-3c: Implement Archaeological Protocols for Field Investigations MM CUL-5: Follow State and Federal Law Governing Human Remains If Such Resources Are Discovered during Construction	Significant and Unavoidable	The study area is sensitive for buried human remains. Construction would require ground-disturbing work that may damage previously unidentified human remains, resulting in direct effects on these resources. Disturbance of human remains, including remains interred outside of cemeteries, is considered a significant impact in the CEQA Appendix G checklist; therefore, any disturbance of such remains would be a significant impact. Mitigation Measures CUL-3a: Prepare and Implement an Archaeological Resources Management Plan, CUL-3b: Conduct Cultural Resources Sensitivity Training, and CUL-3c: Implement Archaeological Protocols for Field Investigations would reduce the potential for this impact and its severity by implementing monitoring and discovery protocols and providing training to all personnel involved in ground-disturbing activities, but not to a less-than-significant level because they would not guarantee that buried human remains could be discovered and treated in advance of construction; the scale of construction makes it technically and economically infeasible to perform the level of sampling necessary to identify all such buried human remains prior to construction. Therefore, this impact, even with mitigation, would be significant and unavoidable. Findings: Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid, the significant environmental effect as identified in the Final EIR. Impacts are therefore significant and unavoidable despite the adoption of feasible mitigation measures.

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Adopted Mitigation Measures	Impact Conclusion After Mitigation- CEQA	Findings of Fact
Transportation				
Impact TRANS-1: Increased Average VMT Per Construction Employee versus Regional Average	Significant	MM TRANS-1: Implement Site-Specific Construction Transportation Demand Management Plan and Transportation Management Plan	Significant and Unavoidable	Construction of the Project would result in additional vehicle miles traveled (VMT) to the regional transportation system and increase the total amount of driving and distances traveled for home-based work trips when compared to the regional average of 22.5 miles per day. This increase would be a temporary but long-term and a substantial VMT impact because conveyance facility construction employee VMT would exceed the regional VMT average over the course of the construction time period for Project facilities. This level of carpool participation is a goal that may not be achieved because construction workers will be drawn from the region in a manner that may not be conducive to large-scale carpooling or vanpooling. Because of the logistics of requiring construction workers to carpool/vanpool near their place of residence to project construction sites, and the uncertainty that this goal would be achieved, Impact TRANS-1 is considered significant and unavoidable with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid, the significant environmental effect as identified in the Final EIR. Impacts are therefore significant and unavoidable despite the adoption of feasible mitigation measures.
Air Quality and Greenhouse Gases				
Impact AQ-5: Result in Exposure of Sensitive Receptors to Substantial Localized Criteria Pollutant Emissions	Significant	MM AQ-5: Avoid Public Exposure to Localized Particulate Matter and Nitrogen Dioxide Concentrations	Significant and Unavoidable	The impact would be significant under CEQA for the Project because construction could contribute to existing violations or create new violations of the particulate matter (PM) that is 2.5 microns in diameter and smaller (PM2.5) and particulate matter that is 10 microns in diameter and smaller (PM10) standards. Construction of the Project would generate maximum 1-hour nitrogen dioxide (NO_2) concentrations above the National Ambient Air Quality Standards (NAAQS). No other violations of the ambient air quality standards would result during project construction. Likewise, off-site construction traffic would not contribute to a localized violation of the California ambient air quality standards (CAAQS) or national ambient air quality standards (NAAQS) at intersections throughout the transportation network. Emissions from long-term Operation & Maintenance activities would not cause or contribute to violations of the CAAQS and NAAQS. Environmental Commitments EC-7: Off-Road Heavy-Duty Engines through EC-13: DWR Best Management Practices to Reduce Greenhouse Gas (GHG) Emissions would minimize construction emissions through implementation of the on-site controls. However, exceedances of the significant impact levels (SILs) and ambient air quality standards would still occur, and the project would contribute a significant level of localized air pollution within the local air quality study area. Mitigation Measure AQ-5: Avoid Public Exposure to Localized Particulate Matter and Nitrogen Dioxide Concentrations is required to reduce potential public exposure to elevated ambient concentrations of PM and NO2 during construction. As discussed above, the predicted results presented in Tables 23-55 through 23-58 are conservative because they combine worst-case meteorological conditions with the highest daily and annual construction emissions estimates. Mitigation Measure AQ-5 requires additional PM and NO2 modeling to provide a more refined estimate of hourly and annual concentrations that are expected to occur during the construction period. If the refined modeling predicts an exceedance of the SIL or violation of the NO2 NAAQS, the measure requires DWR to conduct ambient air quality monitoring during

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Adopted Mitigation Measures	Impact Conclusion After Mitigation- CEQA	Findings of Fact
				construction. Results of the monitoring would be used to inform decision-making on further actions to reduce pollutant concentrations. While these actions would lower exposure to project-generated air pollution, it may not be feasible to completely eliminate all localized exceedances of the SILs and ambient air quality standards. Accordingly, this impact is determined to be significant and unavoidable. Findings: Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid, the significant environmental effect as identified in the Final EIR. Impacts are therefore significant and unavoidable despite the adoption of feasible mitigation measures.
Noise and Vibration				
Impact NOI-1: Generate a Substantial Temporary or Permanent Increase in Ambient Noise Levels in the Vicinity of the Project in Excess of Standards Established in the Local General Plan or Noise Ordinance, or Applicable Standards of Other Agencies	Significant	MM NOI-1: Develop and Implement a Noise Control Plan	Significant and Unavoidable	Construction-related noise would exceed daytime and nighttime noise level criteria at intakes, shaft sites, the Bethany Complex, and associated infrastructure under the Project. Depending on facility location relative to noise-sensitive receptors, the duration of daytime criteria exceedance would vary from 1 week to up to 14 years on a nonconsecutive basis. The duration of nighttime criteria exceedance would vary from 1 week to 5 months on a nonconsecutive basis. The exceedance of daytime and nighttime noise level criteria for these durations would result in a significant impact. Mitigation Measure NOI-1: Develop and Implement a Noise Control Plan would reduce noise levels through pre-construction actions, sound-level monitoring, best noise control practices, and installation of noise barriers. Mitigation Measure NOI-1 would reduce the severity of this impact to less-than-significant levels if property owners elect to participate in the sound insulation program to reduce noise impacts. DWR cannot ensure that property owners will voluntarily participate in the program and accept sound insulation improvements. If a property owner does not elect to participate in the sound insulation program, the impact would remain significant and unavoidable. Conservatively, the impact due to construction noise is determined to be significant and unavoidable after mitigation. However, if improvements required to avoid significant impacts are accepted by all eligible property owners, impacts would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid, the significant environmental effect as identified in the Final EIR. Impacts are therefore significant and unavoidable despite the adoption of feasible mitigation measures.
Paleontological Resources				
Impact PALEO-2: Cause Destruction of a Unique Paleontological Resource as a Result of Tunnel Construction and Ground Improvement	Significant	No feasible mitigation is available to address this impact.	Significant and Unavoidable	Construction of water conveyance facilities could cause the destruction of unique paleontological resources because tunneling would occur in geologic units with high sensitivity for paleontological resources: the Modesto and Riverbank Formations. The Project could destroy unique paleontological resources, with varying degrees of magnitude (Table 28-11). Excavation using the tunnel boring machine (TBM) for the tunnels could destroy unique paleontological resources because tunneling would involve large-scale ground disturbance that would not be accessible to monitors and would occur in geologic units sensitive for paleontological resources. This tunneling would occur at depths greater than 100 feet and therefore the geologic units affected would not be accessible to paleontologists and any fossils would not be available for scientific study. It cannot, however, be known whether paleontological resources would be present because paleontological resources are not distributed evenly throughout a geologic unit. Nevertheless, given the volume of material excavated by tunneling (Table 28-4) that would occur in the Modesto and Riverbank Formations, which are both sensitive for paleontological resources, and the consistency of the

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Adopted Mitigation Measures	Impact Conclusion After Mitigation- CEQA	Findings of Fact
				reusable tunnel material (RTM) generated by the TBM (i.e., too fine to contain macrofossils), tunneling could result in a significant impact. No mitigation is available to address this impact. The impacts of tunneling would therefore be significant and unavoidable. Ground improvement would consist of in-situ mixing of amendments, such as cement grout, into the subsurface to improve stability. If this improvement occurs in the Modesto or Riverbank Formations and paleontological resources are present, ground improvement would damage or destroy these resources because the activity cannot be viewed or stopped by a paleontological monitor. No mitigation is available to address this impact. The impacts of ground improvement would therefore be significant and unavoidable. Findings: Impacts are significant and unavoidable and no feasible mitigation measures have been identified.
Tribal Cultural Resources				
Impact TCR-1: Impacts on the Delta Tribal Cultural Landscape Tribal Cultural Resource Resulting from Construction, Operations, and Maintenance of the Project Alternatives	Significant	MM TCR-1a: Avoidance of Impacts on Tribal Cultural Resources MM TCR-1b: Plans for the Management of Tribal Cultural Resources MM TCR-1c: Implement Measures to Restore and Enhance the Physical, Spiritual, and Ceremonial Qualities of Affected Tribal Cultural Resources MM TCR-1d: Incorporate Tribal Knowledge into Compensatory Mitigation Planning (Restoration)	Significant and Unavoidable	Project construction and operational activities would impair character-defining features that qualify the Delta Tribal Cultural Landscape (TCL) for listing in the CRHR. The Project would materially impair affiliated Tribes' ability to physically, spiritually, or ceremonially experience these character-defining features: the Delta as a holistic place that is a Tribal homeland and place of origin, terrestrial and aquatic plant and animal species habitats that are part of the Delta's ecosystem and the heritage of Tribes, ethnohistorical locations that are sacred places and historically important, archaeological sites, and views and vistas of and from the Delta that are sacred and important to the heritage of Tribes. While other chapters have identified mitigation measures to address project effects on several of the natural resources that also qualify as character-defining features for the Tribal cultural resource (such as the Compensatory Mitigation Plan) these are aimed at satisfying certain regulatory requirements for ecological conservation and may not mitigate for the impacts to Tribal cultural resources. DWR will coordinate with Tribes to incorporate Tribal values into compensatory mitigation; however, these measures may not reduce the impacts to a less-than-significant level. Because the project would materially impair character-defining features of the Delta TCL, and project commitments and mitigation measures would not fully avoid or reduce such impacts, the impact on the Delta TCL would be significant. DWR has identified four measures for mitigating this impact: Mitigation Measures TCR-1a: Avoidance of Impacts on Tribal Cultural Resources, TCR-1b: Plans for the Management of Tribal Cultural Resources, TCR-1c: Implement Measures to Restore and Enhance the Physical, Spiritual, and Ceremonial Qualities of Affected Tribal Cultural Resources, and TCR-1d: Incorporate Tribal Knowledge into Compensatory Mitigation Planning (Restoration). Application of these mitigation measures has the potential to reduce the impact on character-defining features of the Delta TCL because they could restore affiliated Tribes' ability to physically, spiritually, and ceremonially experience the materially impaired qualities of the features. However, there may be instances where even with the mitigation measures described above, the impacts would not be mitigated to a less-than-significant level. There may also be instances where the project components would permanently damage a character-defining feature of the Delta TCL, such as where ground disturbance and construction of a project feature would occur in an ethnohistoric location, disturb an archaeological site, or a facility would block an important view. Project impacts would remain significant and unavoidable after implementation of Mitigation Measures TCR-1a, TCR-1b, TCR-1c, and TCR-1d because complete avoidance or protection is unlikely and operations and maintenance of the intakes and tunnels may still materially impair the Tribal experience of the spiritual qualities of the Delta TCL even with the efforts to repair or restore the Tribal experience. DWR will continue to consult with affiliated Tribes throughout implementation of Mitigation

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Adopted Mitigation Measures	Impact Conclusion After Mitigation- CEQA	Findings of Fact
				Measures TCR-1a, TCR-1b, and TCR-1c, and TCR-1d to minimize and mitigate the project's significant impacts on the Delta TCL. Findings: Changes or alterations have been required in, or incorporated into, the project that mitigate, but *not* to a less than significant level, the significant environmental effect as identified in the Final EIR. Impacts are therefore significant and unavoidable despite the adoption of feasible mitigation measures.
Impact TCR-2: Impacts on Individual Tribal Cultural Resources Resulting from Construction, Operations, and Maintenance of the Project Alternatives	Significant	MM TCR-1a: Avoidance of Impacts on Tribal Cultural Resources MMTCR-1b: Plans for the Management of Tribal Cultural Resources MM TCR-1c: Implement Measures to Restore and Enhance the Physical, Spiritual, and Ceremonial Qualities of Affected Tribal Cultural Resources MM TCR-1d: Incorporate Tribal Knowledge into Compensatory Mitigation Planning (Restoration) MM TCR-2: Perform an Assessment of Significance, Known Attributes, and Integrity for Individual CRHR Eligibility	Significant and Unavoidable	The precise nature of the impact on an individual Tribal cultural resource is not currently known because DWR has not identified any individual Tribal cultural resources at this time; therefore, the features that make an individual resource eligible for California Register of Historical Resources (CRHR) listing, its significance, attributes and location, and integrity have not been established. In general, DWR anticipates that if an individual resource is identified, the project has the potential to materially impair an affiliated Tribes' ability to physically, ceremonially, or spiritually experience the resource. If the conclusion of implementing Mitigation Measure TCR-2: Perform an Assessment of Significance, Known Attributes, and Integrity for Individual CRHR Eligibility is that DWR finds a character-defining feature or other resource that is individually eligible, application of Mitigation Measures TCR-1a, TCR-1b, and TCR-1c, and TCR-1d could reduce the impact on any individually eligible Tribal cultural resources, because they could restore affiliated Tribes' ability to physically, spiritually, and ceremonially experience the materially impaired qualities of the features. However, there may be instances where even with the mitigation measures described above, the impacts would not be mitigated to a less-than-significant level. There may also be instances where the project components would permanently damage an individual Tribal cultural resource, such as where ground disturbance and construction of a project feature would disturb an individually eligible ethnohistoric location or a facility would block an important view that is a character-defining feature of an individual Tribal cultural resource. Project impacts on individual Tribal cultural resources would remain significant and unavoidable after implementation of Mitigation Measures TCR-1a, TCR-1b, TCR-1c, TCR-1d, and TCR-2, because complete avoidance or protection is unlikely. DWR will continue to consult with affiliated Tribes throughout implementation of mitigation measures to minimize and mitigate the project's significant impacts on the Delta Tribal Cultural Landscape, as well as refine DWR's understanding of the character-defining features, or other features, that may be individual Tribal cultural resources. Findings: Changes or alterations have been required in, or incorporated into, the project, that mitigate, but *not* to a less than significant level, the significant environmental effect as identified in the Final EIR. Impacts are therefore significant and unavoidable despite the adoption of feasible mitigation measures.

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Table 2: CEQA Findings of Fact for the Project's Less-than-Significant Impacts after Mitigation

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
Water Quality				
Impact WQ-6: Effects on Mercury Resulting from Facility Operations and Maintenance	Less Than Significant for the Project; Potentially Significant for Implementation of the CMP	MM WQ-6: Develop and Implement a Mercury Management and Monitoring Plan	Less Than Significant	The Project would not cause additional exceedance of applicable water quality criteria or objectives by frequency, magnitude, and geographic extent that would cause significant impacts on any beneficial uses of waters in the study area. Because mercury concentrations are not expected to increase substantially, no long-term water quality degradation that would result in substantially increased risk for significant impacts on beneficial uses would occur. Furthermore, changes in long-term methylmercury concentrations that may occur in study area waterbodies would not make existing CWA Section 303(d) impairments measurably worse, or increase levels of mercury by frequency, magnitude, and geographic extent to cause measurably higher body burdens of mercury in aquatic organisms, thereby substantially increasing the health risks to wildlife (including fish) or humans consuming those organisms. Thus, the impact of the Project on mercury concentrations would be less than significant. While the Project would not result in significant water quality effects associated with mercury, there could be significant impacts with the implementation of the CMP. Those impacts could be reduced to a less-than-significant level with Mitigation Measure WQ-6. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Soils				
Impact SOILS-5: Have Soils Incapable of Adequately Supporting the Use of Septic Tanks or Alternative Wastewater Disposal Systems Where Sewers Are Not Available for the Disposal of Wastewater	Significant	MM SOILS-5: Conduct Site-Specific Soil Analysis and Construct Alternative Wastewater Disposal System as Required	Less Than Significant	Potential impacts of the use of septic tanks or alternative wastewater disposal systems would occur during construction and operations and maintenance. If a conventional disposal system were to be constructed on soils with a rating of very limited for septic tank absorption fields, use of the system could contaminate surface water and groundwater and create objectionable odors during operations and maintenance. The water contamination could raise the risk of disease transmission and human exposure to pathogens. The impact would be significant. However, county planning and building departments typically require on-site soil percolation tests and other analyses to determine site suitability and type of system appropriate to the site. Along with compliance with county requirements, implementation of Mitigation Measure SOILS-5: Conduct Site-Specific Soil Analysis and Construct Alternative Wastewater Disposal System as Required, would reduce the impact to a less-than-significant level. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Fish and Aquatic Resources				
Impact AQUA-1: Effects of Construction of Water Conveyance Facilities on Fish and Aquatic Species	Significant	MM AQUA-1a: Develop and Implement an Underwater Sound Control and Abatement Plan MM AQUA-1b: Develop and Implement a Barge Operations Plan MM AQUA-1c: Develop and Implement a Fish Rescue and Salvage Plan MM WQ-6: Develop and Implement a Mercury Management and Monitoring Plan CMP-23: Tidal Perennial Habitat Restoration for Construction Impacts on Habitat for Fish and Aquatic Resources	Less Than Significant	Construction impacts on fish and aquatic species potentially would be significant because there would be the potential for spatial and temporal overlap with appreciable proportions of some of the species of management concern's populations (e.g., adult steelhead; Table 12A-9 in Appendix 12A) as well as loss of aquatic habitat. To address these impacts, the project will include Mitigation Measures AQUA-1a: Develop and Implement an Underwater Sound Control and Abatement Plan, AQUA-1b: Develop and Implement a Barge Operations Plan, AQUA-1c: Develop and Implement a Fish Rescue and Salvage Plan, and Mitigation Measure CMP: Compensatory Mitigation Plan, specifically CMP-23: Tidal Perennial Habitat Restoration for Construction Impacts on Habitat for Fish and Aquatic Resources and CMP-24: Channel Margin Habitat Restoration for Construction Impacts on Habitat for Fish and Aquatic Resources (Attachment 3F.1, Compensatory Mitigation Design Guidelines, Table 3F.1-3). Mitigation

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
		CMP-24: Channel Margin Habitat Restoration for Construction Impacts on Habitat for Fish and Aquatic Resources		Measure AQUA-1a: Develop and Implement an Underwater Sound Control and Abatement Plan includes limiting pile-driving timing consistent with EC-14 and controlling or abating underwater noise generated during impact pile driving, for example, by starting impact pile driving at lower levels of intensity to allow fish to leave the area before the intensity is increased. Construction impacts on fish and aquatic species would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact AQUA-2: Effects of Operations and Maintenance of Water Conveyance Facilities on Sacramento River Winter-Run Chinook Salmon	Significant	CMP-25: Tidal Habitat Restoration to Mitigate North Delta Hydrodynamic Effects on Chinook Salmon Juveniles CMP-26: Channel Margin Habitat Restoration for Operations Impacts on Chinook Salmon Juveniles	Less Than Significant	The available information generally indicates that diversion at the North Delta Diversion (NDD) would negatively affect winter-run Chinook salmon through flow-survival and habitat impacts. The Sacramento River is the main migration pathway through the Delta for juvenile winter-run and therefore a large proportion of the population would potentially be exposed to negative impacts. To address the significance of the impacts, Mitigation Measure CMP: Compensatory Mitigation Plan would be implemented, specifically CMP-25: Tidal Habitat Restoration to Mitigate North Delta Hydrodynamic Effects on Chinook Salmon Juveniles and CMP-26: Channel Margin Habitat Restoration or Operations Impacts on Chinook Salmon Juveniles (Attachment 3F.1, Table 3F.1-3). This mitigation would reduce negative hydrodynamic effects such as flow reversals in the Sacramento River at Georgiana Slough (CMP-25) and reduced effects from reduced inundation of riparian/wetland benches as a result of NDD operations (CMP-26). The mitigation thereby would reduce potential for negative effects on winter-run Chinook salmon through-Delta survival as a result of factors such as flow-related changes in migration speed and probability of entering the low-survival interior Delta migration pathway and restoring new bench habitat at elevations that would be inundated under reduced flows downstream of the north Delta intakes. The impact of operations and maintenance of the Project would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact AQUA-3: Effects of Operations and Maintenance of Water Conveyance Facilities on Central Valley Spring-Run Chinook Salmon	Significant	CMP-25: Tidal Habitat Restoration to Mitigate North Delta Hydrodynamic Effects on Chinook Salmon Juveniles CMP-26: Channel Margin Habitat Restoration for Operations Impacts on Chinook Salmon Juveniles	Less Than Significant	Recent research for two spring-run Chinook salmon populations in the Central Valley indicates that the majority of returning adults emigrated as yearlings (Cordoleani et al. 2021), which migrate beginning in fall and therefore have the potential to overlap periods of greater north Delta diversions with greater potential effects on through-Delta survival as shown by the Perry et al. (2018) modeling results. As a result, and although there is uncertainty in biological impacts because of the variability in flow-survival statistical relationships (see discussion for winter-run Chinook salmon), population abundance is low relative to historical values (Appendix 12A) and it is concluded that the operations and maintenance impact of the Project would be significant for spring-run Chinook salmon. Compensatory mitigation to be implemented for the winter-run Chinook salmon significant impact discussed above in Impact AQUA-2 (i.e., Mitigation Measure CMP: Compensatory Mitigation Plan, specifically CMP-25: Tidal Habitat Restoration to Mitigate North Delta Hydrodynamic Effects on Chinook Salmon Juveniles and CMP-26: Channel Margin Habitat Restoration for Operations Impacts on Chinook Salmon Juveniles [Attachment 3F.1, Table 3F.1-3]) would also be applied to spring-run Chinook salmon to mitigate hydrodynamic effects such as flow reversals in the Sacramento River at Georgiana Slough (CMP-25) and effects from reduced inundation of riparian/wetland benches

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
				as a result of North Delta Diversion operations (CMP-26). The impact would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact AQUA-5: Effects of Operations and Maintenance of Water Conveyance Facilities on Central Valley Steelhead	Significant	MM CMP: Compensatory Mitigation Plan	Less Than Significant	As discussed by National Marine Fisheries Service (2016:19), Central Valley steelhead is in danger of extinction, with very low levels of natural production. Available data and studies for steelhead are limited relative to Chinook salmon and so there is some uncertainty in potential effects. As previously noted for winter-run Chinook salmon, there is uncertainty in the biological impacts because of the variability in flow-survival statistical relationships. However, per the significance criteria (Section 12.3.2, Thresholds of Significance), the potential for negative effects of the north Delta intakes (e.g., up to 4% less through-Delta migration survival per the Perry et al. model implemented for juvenile Chinook salmon) and the population status (Appendix 12A) leads to the conclusion that the impact would be significant. Compensatory mitigation (tidal perennial habitat restoration and channel margin restoration) described in Appendix 3F, and as previously discussed for winter-run Chinook salmon would be implemented to reduce the impact to less than significant. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact AQUA-6: Effects of Operations and Maintenance of Water Conveyance Facilities on Delta Smelt	Significant	MM CMP: Compensatory Mitigation Plan CMP-27: Tidal Habitat Restoration for Operations Impacts on Delta Smelt	Less Than Significant	There is generally somewhat less Delta outflow under the Project than existing conditions during spring–fall as a result of less outflow being needed for meeting Delta salinity requirements. There is considerable uncertainty in the potential for negative effects to delta smelt food availability, predation, and recruitment as a result of these changes in Delta outflow, which are within the existing parameters of current regulations (e.g., D-1641; federal and state water project permits). Given the existing all-time low abundance indices of delta smelt (Appendix 12A), the impacts are concluded to be significant. Tidal habitat restoration of approximately 1,100 to 1,400 acres under Mitigation Measure CMP: Compensatory Mitigation Plan, specifically CMP-27 (Attachment 3F-1, Table 3F.1-3), would mitigate these impacts. Restoration would increase the extent of suitable delta smelt habitat (e.g., intertidal and subtidal habitat; California Department of Fish and Game 2011) with appropriate parameters (e.g., turbidity) providing habitat for occupancy (e.g., Sommer and Mejia 2013) or higher food availability in the vicinity (e.g., Hammock et al. 2019b). The impact would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact AQUA-7: Effects of Operations and Maintenance of Water Conveyance Facilities on Longfin Smelt	Significant	MM CMP: Compensatory Mitigation Plan CMP-28: Tidal Habitat Restoration for Operations Impacts on Longfin Smelt	Less Than Significant	In general, the analyses of the operations and maintenance impacts of the Project suggested minor impacts on longfin smelt, relative to existing conditions, including near-field effects of the north Delta intakes, south Delta entrainment, and very little potential for negative effects on food availability as a result of differences in spring Delta outflow. Any such impacts would not be significant because they are minor and would affect only a very small proportion of the longfin smelt population. The analyses of flow-related effects (differences in Delta outflow) on longfin smelt abundance suggested more potential for negative effects under the Project (i.e., mean difference of 2%–10% less depending on water year type) and a potentially significant impact given that they represent a population-level impact. There is uncertainty in the impact, however, given the appreciably greater variability of longfin smelt abundance index estimates

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
				for a given alternative relative to the difference from existing conditions. Operations of the Project would be consistent with all applicable regulations to limit the potential for negative effects on fish and aquatic resources, including the existing spring outflow measures required by the California Department of Fish and Wildlife Incidental Take Permit (ITP). Nevertheless, the uncertain negative outflow-related effect is considered significant in light of the species' California Endangered Species Act-listed status and low population abundance indices (Appendix 12A). As such, the Project would implement approximately 135.2acres of compensatory mitigation (Mitigation Measure CMP: Compensatory Mitigation Plan, specifically CMP-28: Tidal Habitat Restoration for Operations Impacts on Longfin Smelt [Attachment 3F.1, Table 3F.1-3]). Tidal habitat would expand the diversity, quantity, and quality of longfin smelt rearing and refuge habitat consistent with recent tidal habitat mitigation required for outflow impacts to the species and would therefore reduce the potential effects caused by reduced outflow. As shown by multiple recent tidal habitat restoration projects in the Delta, there are potential feasible opportunities for tidal habitat restoration directly applicable to longfin smelt, with demonstrated presence of longfin smelt. This tidal habitat restoration mitigation would reduce the impact to a less-than-significant level; therefore, the impact would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Terrestrial Biological Resources				
Impact BIO-1: Impacts of the Project on the Tidal Perennial Aquatic Natural Community	Significant	MM CMP: Compensatory Mitigation Plan	Less Than Significant	The Project would cause the removal, conversion, and temporary disturbance of tidal perennial aquatic natural community due to project construction and maintenance. The temporary disturbances of tidal perennial aquatic habitat would be reduced by Environmental Commitments EC-1: Conduct Worker Awareness Training; EC-2: Develop and Implement Hazardous Materials Management Plans; EC-3: Develop and Implement Spill Prevention, Containment, and Countermeasure Plans; and EC-14: Construction Best Management Practices for Biological Resources (Appendix 3B). Even with these environmental commitments, however, the loss of tidal perennial aquatic community from construction and potential impacts from maintenance activities would be significant. Mitigation Measure CMP: Compensatory Mitigation Plan would offset permanent and temporary loss of tidal perennial aquatic habitat. Therefore, the impacts on the tidal perennial aquatic community from the Project would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-2: Impacts of the Project on Tidal Freshwater Emergent Wetlands	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-2c: Electrical Power Line Support Placement	Less Than Significant	The Project would cause the removal, conversion, and temporary disturbance of tidal freshwater emergent wetlands due to project construction and maintenance. Temporary disturbances and indirect impacts on tidal freshwater emergent wetlands would be reduced by Environmental Commitments EC-1: Conduct Worker Awareness Training; EC-2: Develop and Implement Hazardous Materials Management Plans; EC-3: Develop and Implement Spill Prevention, Containment, and Countermeasure Plans; and EC-14: Construction Best Management Practices for Biological Resources. Even with these environmental commitments, however, the loss of tidal freshwater emergent wetlands from construction and potential impacts from maintenance activities would be significant. Mitigation Measure BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants would reduce impacts on tidal freshwater emergent wetlands during project construction. Mitigation Measure BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities would reduce impacts on tidal freshwater emergent wetland during

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
				project maintenance. Mitigation Measure BIO-2c: Electrical Power Line Support Placement would minimize impacts on tidal freshwater emergent wetlands from electric power line installation. Mitigation Measure CMP: Compensatory Mitigation Plan would offset permanent and temporary loss of tidal freshwater emergent wetland. Therefore, the impacts on tidal freshwater emergent wetland from the Project would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-3: Impacts of the Project on Valley/Foothill Riparian Habitat	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants	Less Than Significant	Constructing the Project would cause the removal, conversion, and temporary disturbance of valley/foothill riparian habitat. Maintenance activities could result in periodic temporary disturbances to valley/foothill riparian habitat. Temporary disturbances and indirect impacts on valley/foothill riparian habitat would be reduced by Environmental Commitments EC-1: Conduct Worker Awareness Training and EC-14: Construction Best Management Practices for Biological Resources. Even with these environmental commitments, however, the loss of valley/foothill riparian habitat from construction and potential impacts from maintenance activities would be significant. Mitigation Measure BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants would reduce impacts on valley/foothill riparian habitat during project construction. Mitigation Measure BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities would reduce impacts on valley/foothill riparian habitat during project maintenance. Mitigation Measure BIO-2c: Electrical Power Line Support Placement would minimize impacts on valley/foothill riparian habitat from electric power line installation. Mitigation Measure CMP: Compensatory Mitigation Plan would offset permanent and temporary loss of valley/foothill riparian habitat. Therefore, the impacts on valley/foothill riparian habitat from the Project would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-4: Impacts of the Project on the Nontidal Perennial Aquatic Natural Community	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants	Less Than Significant	Constructing the Project would cause the removal, conversion, and temporary disturbance of nontidal aquatic perennial habitat. Maintenance activities could result in periodic temporary disturbances to nontidal perennial aquatic habitat. Temporary disturbances and indirect impacts on nontidal perennial aquatic habitat would be reduced by Environmental Commitments EC-1: Conduct Worker Awareness Training; EC-2: Develop and Implement Hazardous Materials Management Plans; EC-3: Develop and Implement Spill Prevention, Containment, and Countermeasure Plans; and EC-14: Construction Best Management Practices for Biological Resources. Even with these environmental commitments, however, the loss of nontidal perennial aquatic habitat from construction and potential impacts from maintenance activities would be significant. Mitigation Measure BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants would mitigate impacts on nontidal perennial aquatic habitat by identifying locations where special-status natural communities and special-status plants would be avoided. Under Mitigation Measure CMP: Compensatory Mitigation Plan, nontidal perennial aquatic habitat would be created or acquired and permanently protected to compensate for project impacts from project construction to ensure no significant loss of nontidal perennial aquatic habitat functions and values. Therefore, the impacts on nontidal perennial aquatic habitat from the Project would be less than significant with mitigation.

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
				Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-5: Impacts of the Project on Nontidal Freshwater Perennial Emergent Wetland	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants	Less Than Significant	Constructing the Project would cause the removal, conversion, and temporary disturbance of nontidal freshwater perennial emergent wetlands. Maintenance activities could result in periodic temporary disturbances to this community. Temporary disturbances and indirect impacts on nontidal freshwater perennial emergent wetland would be reduced by Environmental Commitments EC-1: Conduct Worker Awareness Training; EC-2: Develop and Implement Hazardous Materials Management Plans; EC-3: Develop and Implement Spill Prevention, Containment, and Countermeasure Plans; and Environmental Commitment EC-14: Construction Best Management Practices for Biological Resources. Even with these environmental commitments, however, the loss of nontidal freshwater perennial emergent wetland from construction and potential impacts from maintenance activities would be significant. Mitigation Measure BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants would mitigate impacts on nontidal freshwater emergent wetlands by identifying locations where special-status natural communities and special-status plants would be avoided or where measures to minimize impact would be implemented. Under Mitigation Measure CMP: Compensatory Mitigation Plan, nontidal perennial emergent wetlands would be created or acquired and permanently protected to compensate for project impacts from project construction and ensure no significant loss of nontidal perennial aquatic habitat functions and values. Therefore, the impacts on nontidal freshwater perennial emergent wetland from the Project would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-7: Impacts of the Project on Alkaline Seasonal Wetland Complex	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-2c: Electrical Power Line Support Placement	Less Than Significant	Project construction and maintenance would remove, convert, or temporarily disturb alkaline seasonal wetland complex. Temporary disturbances and indirect impacts on alkaline seasonal wetland complex would be reduced by Environmental Commitments EC-1: Conduct Worker Awareness Training; EC-2: Develop and Implement Hazardous Materials Management Plans; EC-3: Develop and Implement Spill Prevention, Containment, and Countermeasure Plans; and EC-14: Construction Best Management Practices for Biological Resources. Even with these environmental commitments, however, the loss of alkaline seasonal wetland complex from construction and potential impacts from maintenance activities would be significant. Mitigation Measure BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants would reduce impacts on alkaline seasonal wetlands during project construction. Mitigation Measure BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities would reduce impacts on alkaline seasonal wetlands during project maintenance. Mitigation Measure BIO-2c: Electrical Power Line Support Placement would minimize impacts on alkaline seasonal wetland from electric power line installation. Under Mitigation Measure CMP: Compensatory Mitigation Plan, alkaline seasonal wetland complex would be created or acquired and permanently protected to compensate for project impacts from project construction and ensure no significant loss of nontidal perennial aquatic habitat functions and values. The total acreage to be conserved would be based on the criteria presented in the CMP. Therefore, the impacts on alkaline seasonal wetland complex from the Project would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
Impact BIO-8: Impacts of the Project on Vernal Pool Complex	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities	Less Than Significant	Constructing the Project would cause the removal, conversion, and temporary disturbance of vernal pool complex. Maintenance activities could result in periodic temporary disturbances to this community. Temporary disturbances and indirect impacts on vernal pool complex would be reduced by Environmental Commitments EC-1: Conduct Worker Awareness Training; EC-2: Develop and Implement Hazardous Materials Management Plans; EC-3: Develop and Implement Spill Prevention, Containment, and Countermeasure Plans; and EC-14: Construction Best Management Practices for Biological Resources. Even with these environmental commitments, however, the loss of vernal pool complex from construction and potential impacts from maintenance activities would be significant. Mitigation Measure BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants would reduce impacts on vernal pool complex during project construction. Mitigation Measure BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities would reduce impacts on vernal pool complex during project maintenance. As described in Appendix 3F and Attachment 3F.1, under Mitigation Measure CMP: Compensatory Mitigation Plan, vernal pool complex would be created or acquired and permanently protected to compensate for project impacts from project construction and ensure no significant loss of vernal pool complex functions and values. The total acreage to be conserved would be based on the criteria presented in the CMP. Therefore, the impacts on vernal pool complex from the Project would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-9: Impacts of the Project on Special-Status Vernal Pool Plants	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities	Less Than Significant	Temporary disturbances and indirect impacts on special-status vernal pool plants would be reduced by Environmental Commitment EC-14: Construction Best Management Practices for Biological Resources. Even with this environmental commitment, however, the effects on vernal pool plants from construction and potential impacts from maintenance activities would be significant. Mitigation Measure BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants would reduce impacts on special-status vernal pool plants during project construction. Mitigation Measure BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities would reduce impacts on special-status vernal pool plants during project maintenance. Under Mitigation Measure CMP: Compensatory Mitigation Plan, habitat for special-status vernal pool plants would be created and permanently protected or mitigation credits would be acquired to compensate for project impacts and ensure no significant loss of habitat, as described in Appendix 3F and Attachment 3F.1. Therefore, the Project's impacts on special-status vernal pool plants would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-10: Impacts of the Project on Special-Status Alkaline Seasonal Wetland Complex Plants	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities	Less Than Significant	Temporary disturbances and indirect impacts special-status alkaline seasonal wetland complex plants would be reduced by Environmental Commitment EC-14: Construction Best Management Practices for Biological Resources. Even with this environmental commitment, however, the loss of alkaline wetland plants from construction and potential impacts from maintenance activities would be significant. Mitigation Measure BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants, would reduce impacts on special-status alkaline seasonal wetland complex plants during project construction. Mitigation Measure BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities would reduce impacts on special-status alkaline seasonal wetland complex plants during project maintenance. Under Mitigation Measure CMP:

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
				Compensatory Mitigation Plan, habitat for special-status alkaline seasonal wetland plants would be created and permanently protected or mitigation credits would be acquired to compensate for project impacts and ensure no significant loss of habitat, as described in Appendix 3F and Attachment 3F.1. Therefore, the project's impacts on special-status alkaline seasonal wetland plants would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-11: Impacts of the Project on Special-Status Grassland Plants	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities	Less Than Significant	Temporary disturbances and indirect impacts on special-status grassland plants would be reduced by Environmental Commitment EC-14: Construction Best Management Practices for Biological Resources. Even with this environmental commitment, however, the loss of grassland plants from construction and potential impacts from maintenance activities would be significant. Mitigation Measure BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants would reduce impacts on special-status grassland plants during project construction. Mitigation Measure BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities would reduce impacts on special-status grassland plants during project maintenance. Under Mitigation Measure CMP: Compensatory Mitigation Plan, habitat for special-status grassland plants would be created and permanently protected or mitigation credits would be acquired to compensate for project impacts and to ensure no significant loss of habitat. Therefore, the Project's impacts on special-status grassland plants would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-12: Impacts of the Project on Tidal Freshwater Emergent Wetland Plants	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities	Less Than Significant	Temporary disturbances and indirect impacts on special-status tidal freshwater emergent wetland plants would be reduced by Environmental Commitment EC-14: Construction Best Management Practices for Biological. Even with this environmental commitment, however, the loss of tidal freshwater emergent plants from construction and potential impacts from maintenance activities would be significant. Mitigation Measure BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants would reduce impacts on special-status tidal freshwater emergent wetland species during project construction. Mitigation Measure BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities would reduce impacts on tidal freshwater emergent wetland during project maintenance. Under Mitigation Measure CMP: Compensatory Mitigation Plan (Appendix 3F, Section 3F.3.2.5; Attachment 3F.1, Table 3F.1-2, CMP-2: Tidal Freshwater Emergent Wetland, and Table 3F.1-3, CMP-9: Special-Status Plants), habitat for special-status tidal freshwater emergent wetland plants would be created or acquired and permanently protected to compensate for project impacts and ensure no significant loss of special-status tidal perennial aquatic wetland habitat functions and values. Therefore, project impacts on special-status tidal freshwater emergent wetland plants would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-13: Impacts of the Project on Special-Status Nontidal Perennial Aquatic Plants	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants	Less Than Significant	Temporary disturbances and indirect impacts of nontidal perennial aquatic habitat would be reduced by Environmental Commitment EC-14: Construction Best Management Practices for Biological Resources. Even with this environmental commitment, however, the loss nontidal

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
		MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities		perennial aquatic plants from construction and potential impacts from maintenance activities would be significant. Mitigation Measure BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants would reduce impacts on special-status nontidal perennial aquatic plants during project construction. Mitigation Measure BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities would reduce impacts on special-status nontidal perennial aquatic plants during project maintenance. Under Mitigation Measure CMP: Compensatory Mitigation Plan, habitat for special-status nontidal perennial aquatic plants would be created or acquired and permanently protected to compensate for project impacts and ensure no significant loss of special-status nontidal perennial aquatic plants or their habitat functions and values. The project impacts on these special-status nontidal perennial aquatic plants would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-14: Impacts of the Project on Vernal Pool Aquatic Invertebrates	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-14: Avoid and Minimize Impacts on Vernal Pool Aquatic Invertebrates and Critical Habitat for Vernal Pool Fairy Shrimp	Less Than Significant	The impacts on vernal pool aquatic invertebrates from the Project would be less than significant with mitigation because the measures would replace lost habitat and reduce direct effects on the species, including habitat disturbance, by avoiding and minimizing activities during construction and maintenance that could adversely affect habitat, which include establishing non-disturbance buffers around pools with construction fencing, by surveying suitable habitat for vernal pool fairy shrimp and vernal pool tadpole shrimp, and by avoiding adverse modification of critical habitat and indirect effects on vernal pool aquatic invertebrate habitat through work area redesigns, to the extent practicable. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-16: Impacts of the Project on Vernal Pool Terrestrial Invertebrates	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-14: Avoid and Minimize Impacts on Vernal Pool Aquatic Invertebrates and Critical Habitat for Vernal Pool Fairy Shrimp	Less Than Significant	The impacts on vernal pool terrestrial invertebrates from the Project would be less than significant with mitigation because mitigation measures would replace lost habitat and reduce direct effects on the species, including habitat disturbance, by avoiding and minimizing activities during construction and maintenance that could adversely affect habitat, which include establishing non-disturbance buffers around habitat with construction fencing, and by avoiding indirect effects on vernal pool habitat to the extent practicable. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-18: Impacts of the Project on Valley Elderberry Longhorn Beetle	Significant	MM CMP: Compensatory Mitigation Plan CMP-18a: Sandhill Crane Roosting Habitat CMP-18b: Sandhill Crane Foraging Habitat CMP-19a: Swainson's Hawk Nesting Habitat CMP-19b: Swainson's Hawk Foraging Habitat CMP-22a: Tricolored Blackbird Nesting Habitat CMP-22b: Tricolored Blackbird Breeding Foraging Habitat MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities	Less Than Significant	The impacts on valley elderberry longhorn beetle from the Project would be less than significant with mitigation because these mitigation measures would replace lost habitat and reduce direct effects on the species, including habitat disturbance, by avoiding and minimizing activities that could injure or kill valley elderberry longhorn beetle, which includes establishing non-disturbance buffers around shrubs with construction fencing, limiting trimming of shrubs to stems less likely to contain larvae (<1 inch in diameter) and during periods when trimming is less likely to affect the vigor of shrubs, and avoiding work to the extent possible during the species active season when they are in flight around shrubs and dispersing. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
		MM BIO-18: Avoid and Minimize Impacts on Valley Elderberry Longhorn Beetle		
Impact BIO-20: Impacts of the Project on Curved-Foot Hygrotus Diving Beetle	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-14: Avoid and Minimize Impacts on Vernal Pool Aquatic Invertebrates and Critical Habitat for Vernal Pool Fairy Shrimp	Less Than Significant	The impacts on curved-foot hygrotus beetle from the Project would be less than significant with mitigation because these mitigation measures would reduce direct effects on the species, including habitat disturbance, by avoiding and minimizing activities during construction and maintenance that could adversely affect habitat, establishing non-disturbance buffers around aquatic habitat with construction fencing and by implementing protective measures during maintenance activities. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-21: Impacts of the Project on Crotch Bumble Bee	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-21: Avoid and Minimize Impacts on Crotch Bumble Bee	Less Than Significant	The impacts on Crotch bumble bee from the Project would be less than significant with mitigation because these mitigation measures would replace lost habitat and reduce direct effects on the species, including habitat disturbance, by identifying and avoiding potential habitat to the extent possible during maintenance and construction activities through establishing avoidance buffers, by temporarily delaying work where colonies are identified, and replanting areas of disturbed habitat with suitable foraging plants. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-22: Impacts of the Project on California Tiger Salamander	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-22a: Avoid and Minimize Impacts on California Tiger Salamander MM BIO-22b: Avoid and Minimize Operational Traffic Impacts on Wildlife	Less Than Significant	The impacts on California tiger salamander from the Project would be less than significant with mitigation because these mitigation measures would replace lost habitat and reduce direct effects on the species, including habitat disturbance, by designing lighting that avoids spillover into habitats and thus avoiding disrupting dispersal movements; by avoiding construction and maintenance activities in and adjacent to habitat to the extent possible; timing construction activities, installing exclusion fencing, conducting preconstruction surveys, and other protective measures to avoid and minimize the potential for injury and mortality; and by putting in place traffic control measures at DWR facilities during operations to minimize the potential for vehicle strikes. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-23: Impacts of the Project on Western Spadefoot Toad	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-22b: Avoid and Minimize Operational Traffic Impacts on Wildlife MM BIO-23: Avoid and Minimize Impacts on Western Spadefoot Toad	Less Than Significant	The impacts on western spadefoot toad from the Project would be less than significant with mitigation because these mitigation measures would replace lost habitat and reduce direct effects on the species, including habitat disturbance, by designing lighting that avoids spillover into habitats, thus avoiding disrupting dispersal movements; by avoiding construction and maintenance activities in and adjacent to habitat to the extent possible; timing construction activities, installing exclusion fencing, conducting preconstruction surveys, and other protective measures to avoid and minimize the potential for injury and mortality; and by putting in place traffic control measures at DWR facilities during operations to minimize the potential for vehicle strikes. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
Impact BIO-24: Impacts of the Project on California Red-Legged Frog	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-22b: Avoid and Minimize Operational Traffic Impacts on Wildlife MM BIO-24a: Avoid and Minimize Impacts on California Red-Legged Frog and Critical Habitat MM BIO-24b: Compensate for Impacts on California Red-Legged Frog Habitat Connectivity	Less Than Significant	The impacts on California red-legged frog from the Project would be less than significant with mitigation because these mitigation measures would replace lost habitat and reduce direct effects on the species, including habitat disturbance, by designing lighting that avoids spillover into habitats and thus avoiding potential increases in predation and disrupting normal behaviors; by avoiding construction and maintenance activities in and adjacent to habitat to the extent possible; timing construction activities, installing exclusion fencing, conducting preconstruction surveys, and other protective measures to avoid and minimize the potential for injury and mortality; and by putting in place traffic control measures at DWR facilities during operations to minimize the potential for vehicle strikes. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-25: Impacts of the Project on Western Pond Turtle	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-22b: Avoid and Minimize Operational Traffic Impacts on Wildlife MM BIO-25: Avoid and Minimize Impacts on Western Pond Turtle MM WQ-6 Develop and Implement a Mercury Management and Monitoring Plan	Less Than Significant	The impacts on western pond turtle from the Project would be less than significant with mitigation because these mitigation measures would replace lost habitat and reduce direct effects on the species, including habitat disturbance, by avoiding construction and maintenance activities in and adjacent to habitat to the extent possible; timing construction activities, installing exclusion fencing, conducting preconstruction surveys, and other protective measures to avoid and minimize the potential for injury and mortality; and by putting in place traffic control measures at DWR facilities during operations to minimize the potential for vehicle strikes. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-26: Impacts of the Project on Coast Horned Lizard	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-22b: Avoid and Minimize Operational Traffic Impacts on Wildlife MM BIO-26: Avoid and Minimize Impacts on Special-Status Reptiles	Less Than Significant	The impacts on coast horned lizard from the Project would be less than significant with mitigation because these mitigation measures would replace lost habitat and reduce direct effects on the species, including habitat disturbance, by avoiding construction and maintenance activities in and adjacent to habitat to the extent possible; timing construction activities, conducting preconstruction surveys, and other protective measures to avoid and minimize the potential for injury and mortality; and by putting in place traffic control measures at DWR facilities during operations to minimize the potential for vehicle strikes. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-27: Impacts of the Project on Northern California Legless Lizard	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-22b: Avoid and Minimize Operational Traffic Impacts on Wildlife MM BIO-26: Avoid and Minimize Impacts on Special-Status Reptiles	Less Than Significant	The impacts on Northern California legless lizard from the Project would be less than significant with mitigation because these mitigation measures would replace lost habitat and reduce direct effects on the species, including habitat disturbance, by avoiding construction and maintenance activities in and adjacent to habitat to the extent possible; timing construction activities, installing exclusion fencing, conducting preconstruction surveys, and other protective measures to avoid and minimize the potential for injury and mortality; and by putting in place traffic control measures at DWR facilities during operations to minimize the potential for vehicle strikes. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-28: Impacts of the Project on California Glossy Snake	Significant	MM CMP: Compensatory Mitigation Plan	Less Than Significant	The impacts on California glossy snake from the Project would be less than significant with mitigation because these mitigation measures would reduce direct effects on the species,

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
		MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-22b: Avoid and Minimize Operational Traffic Impacts on Wildlife MM BIO-26: Avoid and Minimize Impacts on Special-Status Reptiles		including habitat disturbance, by avoiding construction and maintenance activities in and adjacent to habitat to the extent possible; timing construction activities, conducting preconstruction surveys, and other protective measures to avoid and minimize the potential for injury and mortality; and by putting in place traffic control measures at DWR facilities during operations to minimize the potential for vehicle strikes. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-29: Impacts of the Project on San Joaquin Coachwhip	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-22b: Avoid and Minimize Operational Traffic Impacts on Wildlife MM BIO-26: Avoid and Minimize Impacts on Special-Status Reptiles	Less Than Significant	The impacts on San Joaquin coachwhip from the Project would be less than significant with mitigation because these mitigation measures would replace lost habitat with habitat potentially suitable and reduce direct effects on the species, including habitat disturbance, by avoiding construction and maintenance activities in and adjacent to habitat to the extent possible; timing construction activities, installing exclusion fencing, conducting preconstruction surveys, and other protective measures to avoid and minimize the potential for injury and mortality; and by putting in place traffic control measures at DWR facilities during operations to minimize the potential for vehicle strikes. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-30: Impacts of the Project on Giant Garter Snake	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-22b: Avoid and Minimize Operational Traffic Impacts on Wildlife MM BIO-30: Avoid and Minimize Impacts on Giant Garter Snake MM WQ-6 Develop and Implement a Mercury Management and Monitoring Plan	Less Than Significant	The impacts on giant garter snake from the Project would be less than significant with mitigation because these mitigation measures would replace lost habitat and reduce direct effects on the species, including habitat disturbance, by avoiding construction and maintenance activities in and adjacent to habitat to the extent possible; timing construction activities, installing exclusion fencing, conducting preconstruction surveys, and other protective measures to avoid and minimize the potential for injury and mortality; and by putting in place traffic control measures at DWR facilities during operations to minimize the potential for vehicle strikes. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-31: Impacts of the Project on Western Yellow-Billed Cuckoo	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction MM AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences MM NOI-1: Develop and Implement a Noise Control Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-2c: Electrical Power Line Support Placement MM BIO-31: Avoid and Minimize Impacts on Western Yellow-Billed Cuckoo	Less Than Significant	The impacts on western yellow-billed cuckoo from the Project would be less than significant with mitigation because the mitigation measures would replace lost habitat and reduce direct effects on the species, including habitat, noise, and visual disturbances, by providing environmental awareness training to construction personnel, by implementing protective measures during maintenance activities, and species-specific avoidance measures during construction. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-32: Impacts of the Project on California Black Rail	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction	Less Than Significant	The impacts on California black rail from the Project would be less than significant with mitigation because the mitigation measures would replace lost habitat and reduce direct effects on the species, including habitat, noise, and visual disturbances, by providing environmental

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
		MM AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences MM NOI-1: Develop and Implement a Noise Control Plan		awareness training to construction personnel, by implementing protective measures during maintenance activities, and species-specific avoidance measures during construction. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-33: Impacts of the Project on Greater Sandhill Crane and Lesser Sandhill Crane	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction MM AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences MM NOI-1: Develop and Implement a Noise Control Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-2c: Electrical Power Line Support Placement MM BIO-33: Avoid and Minimize Disturbance of Sandhill Cranes	Less Than Significant	Construction, operations, and maintenance of the water conveyance facilities for the Project could result in impacts on greater sandhill crane and lesser sandhill crane through the permanent and temporary loss of known roost sites and modeled foraging habitat and the potential disruption of normal behaviors. The temporary loss of habitat and potential impacts of the disruption of normal behaviors from project construction would be reduced by Environmental Commitments EC-1: Conduct Worker Awareness Training; EC-2: Develop and Implement Hazardous Materials Management Plans; EC-3: Develop and Implement Spill Prevention, Containment, and Countermeasure Plans; EC-11: Fugitive Dust Control; and EC-14: Construction Best Management Practices for Biological Resources (Appendix 3B); however, even with these commitments, the loss of habitat from the construction of the Project, and the potential for the disruption of normal behaviors from construction, operations, and maintenance activities on greater sandhill crane and lesser sandhill crane would be significant. The CMP would be required to offset the loss of roosting and foraging habitat by creating roosting and foraging habitat and protecting agricultural foraging habitat for sandhill cranes (Appendix 3F, Attachment 3F.1, Table 3F.1-3, CMP-18a: Sandhill Crane Roosting Habitat, and CMP-18b: Sandhill Crane Foraging Habitat), which would reduce the impact associated with habitat loss to less than significant. Because the greater sandhill crane is listed as "fully protected" under the California Fish and Game Code Section 3511, activities that would result in "take" as defined by Section 86 of the Fish and Game Code (i.e., "to hunt, pursue, catch, capture, or kill, or attempt to" undertake these activities) are prohibited. The Project has been designed to avoid any activities that would result in actions considered "take" of greater sandhill crane. The Project would use existing power lines or underground conduit to the extent possible for the purpose of avoiding potential injury or direct mortality of the greater sandhill crane and all new aboveground lines would be located outside of the roost sites or foraging habitat for greater sandhill crane. Mitigation Measure BIO-2c: Electrical Power Line Support Placement, which requires that project lines installed on existing poles or towers be placed in the same vertical prism as existing lines where feasible, as determined by project engineers in coordination with utility providers, and that all project lines within 3 miles of greater sandhill crane roost sites be fitted with bird flight diverters that are visible under all conditions and based on APLIC or more current guidance (Avian Power Line Interaction Committee 2006, 2012), would minimize any additional potential collisions of greater or lesser sandhill cranes from the Project. Mitigation Measures NOI-1: Develop and Implement a Noise Control Plan (Chapter 24); BIO-2b: Avoid and Minimize Impacts on Biological Resources from Maintenance Activities; AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction; AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences (Chapter 18); and BIO-33: Avoid and Minimize Disturbance of Sandhill Cranes would mitigate the impacts on greater sandhill crane and lesser sandhill crane to a less-than-significant level. Therefore, the project impacts on greater sandhill crane and lesser sandhill crane would be less than significant with mitigation because these measures would reduce direct impacts on these species and compensate for lost habitat. Mitigation measures would reduce direct impacts in the following ways: (1) implementing protective measures during maintenance activities, which would include assessing work areas for habitat and conducting surveys where appropriate and delaying maintenance activities (either by season or time of day); (2) designing lighting that avoids spillover into habitat; (3) reducing noise impacts through time-of-day restrictions on construction and noise-attenuating measures where feasible, as determined by the contractor;

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
				and (4) avoiding and minimizing disturbance of roosting and foraging cranes by conducting surveys and work outside of the winter crane season (September 15 through March 15). Mitigation measures would also establish roosting and foraging habitat to compensate for disturbance and displacement of sandhill cranes during construction. The feasibility of mitigation measures will be determined by the contractor in coordination with a qualified wildlife biologist. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-34: Impacts of the Project on California Least Tern	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction MM AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences MM NOI-1: Develop and Implement a Noise Control Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-2c: Electrical Power Line Support Placement MM BIO-34: Avoid California Least Tern Nesting Colonies and Minimize Indirect Effects on Colonies	Less Than Significant	The impacts on California least tern from the Project would be less than significant with mitigation because the mitigation measures would reduce direct effects on the species, including habitat, noise, and visual disturbances, by providing environmental awareness training to construction personnel, by implementing protective measures during maintenance activities, and species-specific avoidance measures for the species during construction. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-35: Impacts of the Project on Cormorants, Herons, and Egrets	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction MM AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences MM NOI-1: Develop and Implement a Noise Control Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-2c: Electrical Power Line Support Placement MM BIO-35: Avoid and Minimize Impacts on Cormorant, Heron, and Egret Rookeries	Less Than Significant	The impacts on cormorants, herons, and egrets from the Project would be less than significant with mitigation because the mitigation measures would replace lost habitat, reduce direct effects on the species, including habitat, noise, and visual disturbances, by providing environmental awareness training to construction personnel, by implementing protective measures during maintenance activities, and avoidance measures for cormorant, heron, or egret rookeries during construction. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-36: Impacts of the Project on Osprey, White-Tailed Kite, Cooper's Hawk, and Other Nesting Raptors	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction MM AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences MM NOI-1: Develop and Implement a Noise Control Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-2c: Electrical Power Line Support Placement MM BIO-36a: Conduct Nesting Surveys for Special-Status and Non–Special-Status Birds and Raptors and	Less Than Significant	The impacts on special-status and non–special-status raptors from the Project would be less than significant with mitigation because the mitigation measures would replace lost habitat, reduce direct effects on the species, including habitat, noise, and visual disturbances, by providing environmental awareness training to construction personnel, by implementing protective measures during maintenance activities, and avoidance measures for raptors during construction. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
		Implement Protective Measures to Avoid Disturbance of Nesting Birds and Raptors MM BIO-36b: Conduct Preconstruction Surveys and Implement Protective Measures to Avoid Disturbance of White-Tailed Kite		
Impact BIO-37: Impacts of the Project on Golden Eagle and Ferruginous Hawk	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction MM AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences MM NOI-1: Develop and Implement a Noise Control Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-2c: Electrical Power Line Support Placement MM BIO-37: Conduct Surveys for Golden Eagle and Avoid Disturbance of Occupied Nests	Less Than Significant	The impacts on ferruginous hawk and golden eagle from the Project would be less than significant with mitigation because the mitigation measures would replace lost habitat, reduce direct effects on the species, including habitat, noise, and visual disturbances, by providing environmental awareness training to construction personnel, by implementing protective measures during maintenance activities, and avoidance measures to avoid take of golden eagles, as defined by Section 86 of the California Fish and Game Code during construction. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-38: Impacts of the Project on Ground-Nesting Grassland Birds	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction MM AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences MM NOI-1: Develop and Implement a Noise Control Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-2c: Electrical Power Line Support Placement MM BIO-36a: Conduct Nesting Surveys for Special-Status and Non–Special-Status Birds and Raptors and Implement Protective Measures to Avoid Disturbance of Nesting Birds and Raptors	Less Than Significant	The impacts on northern harrier, short-eared owl, California horned lark, and grasshopper sparrow from the Project would be less than significant with mitigation because the mitigation measures would reduce direct effects on the species, including habitat, noise, and visual disturbances, by providing environmental awareness training to construction personnel, by implementing protective measures during maintenance activities, and avoidance measures for nesting birds during construction. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-39: Impacts of the Project on Swainson's Hawk	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction MM AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences MM NOI-1: Develop and Implement a Noise Control Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-2c: Electrical Power Line Support Placement MM BIO-39: Conduct Preconstruction Surveys and Implement Protective Measures to Minimize Disturbance of Swainson's Hawk	Less Than Significant	The impacts on Swainson's hawk from the Project would be less than significant with mitigation because the mitigation measure would replace lost habitat, reduce direct effects on the species, including habitat, noise, and visual disturbances, by providing environmental awareness training to construction personnel, by implementing protective measures during maintenance activities, and avoidance measures for nesting Swainson's hawk during construction. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
Impact BIO-40: Impacts of the Project on Burrowing Owl	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction MM AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences MM NOI-1: Develop and Implement a Noise Control Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-2c: Electrical Power Line Support Placement MM BIO-22b: Avoid and Minimize Operational Traffic Impacts on Wildlife MM BIO-40: Conduct Surveys and Minimize Impacts on Burrowing Owl	Less Than Significant	The impacts on burrowing owl from the Project would be less than significant with mitigation because the mitigation measures would reduce direct effects on the species, including habitat, noise, and visual disturbances, by providing environmental awareness training to construction personnel, by implementing protective measures during maintenance activities, and avoidance measures for burrowing owl during construction. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-41: Impacts of the Project on Other Nesting Special-Status and Non–Special-Status Birds	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction MM AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences MM NOI-1: Develop and Implement a Noise Control Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-2c: Electrical Power Line Support Placement MM BIO-36a: Conduct Nesting Surveys for Special-Status and Non–Special-Status Birds and Raptors and Implement Protective Measures to Avoid Disturbance of Nesting Birds and Raptors	Less Than Significant	The impacts on special-status and non–special-status bird species from the Project would be less than significant with mitigation because the mitigation measures would replace lost habitat, reduce direct effects on these species, including habitat, noise, and visual disturbances, by providing environmental awareness training to construction personnel, by implementing protective measures during maintenance activities, and avoidance measures for nesting birds during construction. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-42: Impacts of the Project on Least Bell's Vireo	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction MM AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences MM NOI-1: Develop and Implement a Noise Control Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-2c: Electrical Power Line Support Placement MM BIO-42: Conduct Surveys and Minimize Impacts on Least Bell's Vireo	Less Than Significant	The impacts on least Bell's vireo from the Project would be less than significant with mitigation because the mitigation measures would replace lost habitat and reduce direct effects on the species, including habitat, noise, and visual disturbances, by providing environmental awareness training to construction personnel, by implementing protective measures during maintenance activities, and avoidance measures for least Bell's vireo during construction. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-44: Impacts of the Project on Tricolored Blackbird	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction	Less Than Significant	The impacts on tricolored blackbird from the Project would be less than significant with mitigation because the mitigation measures would replace lost habitat, reduce direct effects on the species, including habitat, noise, and visual disturbances, by providing environmental awareness training to construction personnel, by implementing protective measures during maintenance activities, and avoidance measures for tricolored blackbird during construction.

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
		MM AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences MM NOI-1: Develop and Implement a Noise Control Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-2c: Electrical Power Line Support Placement MM BIO-44: Conduct Preconstruction Surveys and Implement Protective Measures to Avoid Disturbance of Tricolored Blackbird		Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-45: Impacts of the Project on Bats	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-45a: Compensate for the Loss of Bat Roosting Habitat on Bridges and Overpasses MM BIO-45b: Avoid and Minimize Impacts on Roosting Bats	Less Than Significant	The impacts on bats from the Project would be less than significant with mitigation because these measures would replace lost habitat and reduce direct effects on the species (including habitat modification) by (1) implementing protective measures during maintenance activities, which would include assessing work areas for habitat and conducting surveys for bats where appropriate and delaying maintenance activities where possible; (2) designing lighting that avoids spillover into habitats and choosing light sources less disruptive to wildlife and thus avoiding disrupting roost sites and foraging activity; and (3) prior to and during construction, identifying occupied roosts and implementing construction activities such that the avoid disrupting roosts, in particular maternal roosts, and establishing protective buffers around roosts. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-46: Impacts of the Project on San Joaquin Kit Fox	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-22b: Avoid and Minimize Operational Traffic Impacts on Wildlife MM BIO-46: Conduct Preconstruction Survey for San Joaquin Kit Fox and Implement Avoidance and Minimization Measures	Less Than Significant	The impacts on San Joaquin kit fox from the Project would be less than significant with mitigation because the mitigation measures would reduce direct effects on the species by (1) implementing protective measures during maintenance activities, which would include conducting den surveys where appropriate and avoiding certain activities where possible, and (2) implementing traffic controls on facility access roads during operations, which would minimize the potential for vehicle strikes if San Joaquin kit fox is present in these areas. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-47: Impacts of the Project on American Badger	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-22b: Avoid and Minimize Operational Traffic Impacts on Wildlife MM BIO-47: Conduct Preconstruction Survey for American Badger and Implement Avoidance and Minimization Measures	Less Than Significant	The impacts on American badger from the Project would be less than significant with mitigation because the mitigation measures would replace lost habitat and reduce direct effects on the species, including habitat disturbance, by (1) implementing protective measures during maintenance activities, which would include assessing work areas for habitat and conducting dens surveys where appropriate and avoiding certain activities where possible, (2) implementing traffic controls on facility access roads during operations, which would minimize the potential for vehicle strikes, and (3) implementing avoidance measures for active dens during construction. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-48: Impacts of the Project on San Joaquin Pocket Mouse	Significant	MM CMP: Compensatory Mitigation Plan	Less Than Significant	The impacts on San Joaquin pocket mouse from the Project would be less than significant with mitigation because these measures would replace lost habitat and reduce direct effects on the species, including habitat disturbance, by implementing protective measures during

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
		MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-22b: Avoid and Minimize Operational Traffic Impacts on Wildlife		maintenance activities, which would include assessing work areas for potential habitat, and by implementing traffic controls on facility access roads during operations, which would minimize the potential for vehicle strikes. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-51: Substantial Adverse Effect on State- or Federally Protected Wetlands and Other Waters through Direct Removal, Filling, Hydrological Interruption, or Other Means	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities	Less Than Significant	The impact of discharge of fill into aquatic resources would be reduced to less than significant because the mitigation measures would avoid a net loss in aquatic resources and avoid and minimize periodic, temporary discharges of fill material into aquatic resources by assessing maintenance work areas for aquatic resources, establishing non-disturbance buffers around aquatic resources, training maintenance staff on the need to avoid the discharge of fill material into aquatic resources, and having a biological monitor present, where applicable. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-53: Interfere Substantially with the Movement of Any Native Resident or Migratory Fish or Wildlife Species or with Established Native Resident or Migratory Wildlife Corridors, or Impede the Use of Native Wildlife Nursery Sites	Significant	MM CMP: Compensatory Mitigation Plan MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction MM AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-22b: Avoid and Minimize Operational Traffic Impacts on Wildlife MM BIO-53: Avoid and Minimize Impacts on Terrestrial Wildlife Connectivity and Movement	Less Than Significant	The impacts on wildlife connectivity resources, habitat connectivity, and wildlife movement from the Project would be less than significant with mitigation because the mitigation measures would compensate for impacts on wildlife habitat and avoid and minimize habitat and species impacts that potentially could disrupt species movement and habitat selection, habitat access, and wildlife behavior, resulting in impacts on wildlife connectivity. These measures would avoid and minimize habitat and species impacts that could cause potential for injury, mortality, disruption of normal behaviors and disturbances to habitat that potentially may disrupt species movement, habitat selection, habitat access, and wildlife behavior, resulting in impacts on wildlife connectivity, by training construction staff on protecting habitat and species, reporting requirements, and the ramifications for not following these measures; implementing spill prevention and containment plans that would avoid material spills that could affect habitat and wildlife; preventing erosion and sedimentation of habitats and stormwater pollution, which may affect habitat and wildlife; preventing dust emissions that may impact habitat and wildlife; implementing construction BMPs and having a biological monitor present to ensure that non disturbance buffers and associated construction fencing are intact and all other protective measures are being implemented where applicable to protect habitat and wildlife; reducing fugitive light and lighting impacts that may disrupt nocturnal wildlife behavior and habitat selection; implementing environmental review and avoidance of habitat and wildlife impacts during maintenance activities; limiting vehicle speeds and implementing traffic control measures on DWR roads during operations to reduce species movement disruptions and vehicle-related mortality; and ensuring that the project prevents impacts on and facilitates habitat connectivity and safe wildlife movement. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-54: Conflict with the Provisions of an Adopted Habitat Conservation Plan, Natural Community Conservation Plan, or Other Approved Local, Regional, or State Habitat Conservation Plan	Significant	MM CMP: Compensatory Mitigation Plan MM BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants MM BIO-14: Avoid and Minimize Impacts on Vernal Pool Aquatic Invertebrates and Critical Habitat for Vernal Pool Fairy Shrimp MM BIO-18: Avoid and	Less Than Significant	Because the Project would only remove a small proportion of available lands for conservation, and thus not obstruct the plans' conservation goals, and with the mitigation measures to avoid and minimize impacts on covered species and habitats, the impact on an adopted HCP, NCCP, or other approved local, regional, or state habitat conservation plan would be less than significant with mitigation.

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
		Minimize Impacts on Valley Elderberry Longhorn Beetle MM BIO-22a: Avoid and Minimize Impacts on California Tiger Salamander MM BIO-24a: Avoid and Minimize Impacts on California Red-Legged Frog and Critical Habitat MM BIO-25: Avoid and Minimize Impacts on Western Pond Turtle MM BIO-26: Avoid and Minimize Impacts on Special-Status Reptiles MM BIO-30: Avoid and Minimize Impacts on Giant Garter Snake MM BIO-31: Avoid and Minimize Impacts on Western Yellow-Billed Cuckoo MM BIO-32: Conduct Preconstruction Surveys and Implement Protective Measures to Avoid Disturbance of California Black Rail MM BIO-33: Minimize Disturbance of Sandhill Cranes MM BIO-35: Avoid and Minimize Impacts on Cormorant, Heron, and Egret Rookeries MM BIO-36a: Conduct Nesting Surveys for Special-Status and Non–Special-Status Birds and Implement Protective Measures to Avoid Disturbance of Nesting Birds and Raptors MM BIO-36b: Conduct Preconstruction Surveys and Implement Protective Measures to Avoid Disturbance of White-Tailed Kite MM BIO-39: Conduct Preconstruction Surveys and Implement Protective Measures to Minimize Disturbance of Swainson's Hawk MM BIO-40: Conduct Surveys and Minimize Impacts on Burrowing Owl MM BIO-44: Conduct Preconstruction Surveys and Implement Protective Measures to Avoid Disturbance of Tricolored Blackbird MM BIO-47: Conduct Preconstruction Survey for American Badger and Implement Avoidance and Minimization Measures MM AG-1: Preserve Agricultural Land		Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-55: Conflict with Any Local Policies or Ordinances Protecting Biological Resources, Such as a Tree Preservation Policy or Ordinance	Significant	MM CMP: Compensatory Mitigation Plan	Less Than Significant	The temporary loss of habitats from project construction would be reduced by Environmental Commitments EC-1: Conduct Worker Awareness Training; EC-2: Develop and Implement Hazardous Materials Management Plans; EC-3: Develop and Implement Spill Prevention, Containment, and Countermeasure Plans; and EC-14: Construction Best Management Practices for Biological Resources (Appendix 3B). Even with these commitments, however, the permanent loss of habitat from the construction of the alternatives would be significant. The CMP would be required to offset the loss of wetlands, riparian, and habitat for special-status species (Appendix 3F), which would reduce impacts on these resources and thus the conflicts with local policies and ordinances to less than significant. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact BIO-56: Substantial Adverse Effects on Fish and Wildlife Resources	Significant	MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities	Less Than Significant	The impacts on rivers, streams, and lakes, and associated communities, subject to the notification requirements of California Fish and Game Code 1600 et seq. would be less than

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
Regulated under California Fish and Game Code Section 1600 et seq		MM AQUA-1a: Develop and Implement an Underwater Sound Control and Abatement Plan MM AQUA-1b: Develop and Implement a Barge Operations Plan MM AQUA-1c: Develop and Implement a Fish Rescue and Salvage Plan MM BIO-2a: Avoid or Minimize Impacts on Special-Status Natural Communities and Special-Status Plants MM BIO-2b: Avoid and Minimize Impacts on Terrestrial Biological Resources from Maintenance Activities MM BIO-18: Avoid and Minimize Impacts on Valley Elderberry Longhorn Beetle MM BIO-22a: Avoid and Minimize Impacts on California Tiger Salamander MM BIO-24a: Avoid and Minimize Impacts on California Red-Legged Frog and Critical Habitat MM BIO-25: Avoid and Minimize Impacts on Western Pond Turtle MM BIO-26: Avoid and Minimize Impacts on Special-Status Reptiles MM BIO-30: Avoid and Minimize Impacts on Giant Garter Snake MM BIO-31: Avoid and Minimize Impacts on Western Yellow-Billed Cuckoo MM BIO-32: Conduct Preconstruction Surveys and Implement Protective Measures to Avoid Disturbance of California Black Rail MM BIO-33: Minimize Disturbance of Sandhill Cranes MM BIO-35: Avoid and Minimize Impacts on Cormorant, Heron, and Egret Rookeries MM BIO-36a: Conduct Nesting Surveys for Special-Status and Non–Special-Status Birds and Implement Protective Measures to Avoid Disturbance of Nesting Birds and Raptors MM BIO-36b: Conduct Preconstruction Surveys and Implement Protective Measures to Avoid Disturbance of White-Tailed Kite MM BIO-39: Conduct Preconstruction Surveys and Implement Protective Measures to Minimize Disturbance of Swainson's Hawk MM BIO-40: Conduct Surveys and Minimize Impacts on Burrowing Owl MM BIO-44: Conduct Preconstruction Surveys and Implement Protective Measures to Avoid Disturbance of Tricolored Blackbird MM BIO-45b: Avoid and Minimize Impacts on Roosting Bats MM BIO-46: Conduct Preconstruction Survey for San Joaquin Kit Fox and Implement Avoidance and Minimization Measures MM BIO-47: Conduct Preconstruction Survey for American Badger and Implement Avoidance and Minimization Measures		significant because the mitigation measures would provide for compensatory mitigation to offset impacts on habitat that support fish and wildlife species, including rare plants, and would require steps to avoid and minimize effects on these species by establishing work windows to minimize the level of construction activities during sensitive time periods (e.g., migration, nesting), by establishing non-disturbance buffers to protect sensitive resources, by conducting preconstruction surveys to avoid occupied areas to the extent practicable, and by having biological monitors present to ensure measures are implemented and that direct effects on species are avoided and minimized. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Agricultural Resources				

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
Impact AG-3: Other Impacts on Agriculture as a Result of Constructing and Operating the Water Conveyance Facilities Prompting Conversion of Prime Farmland, Unique Farmland, Farmland of Local Importance, or Farmland of Statewide Importance	Significant	MM AG-3: Replacement or Relocation of Affected Infrastructure Supporting Agricultural Properties MM GW-1: Maintain Groundwater Supplies in Affected Areas	Less than Significant	Construction and operation of the Project's water conveyance facilities could indirectly affect agriculture within the study area through changes in groundwater elevation in localized areas affecting crop yields, disruption of agricultural infrastructure such as irrigation and drainage facilities, and operation-related changes in salinity affecting the water quality of irrigation water applied to crops. The potential for impacts resulting from changes in groundwater elevations during construction and operation would be minimized by design elements such placement of seepage cutoff wall placements around the north Delta intakes where such issues are most likely to arise. Implementation of these design elements to prevent changes in groundwater elevations that may affect neighboring properties, including farmland, would be tracked through groundwater monitoring programs. Furthermore, with Mitigation Measure GW-1: Maintain Groundwater Supplies in Affected Areas, identified in Chapter 8, the effects of temporary dewatering associated with the project are not anticipated to adversely disrupt agricultural operations in the vicinity of the intake sites that would result in conversion of Important Farmland to nonagricultural use. DWR considered how construction work for the project could affect local infrastructure supporting agricultural properties, including drainage and irrigation facilities. Such disruptions could result in the areas serviced by this infrastructure being fallowed. During project planning, known infrastructure used to serve agricultural properties were avoided to the greatest extent possible; however, the presence of additional infrastructure (e.g., buried pipelines that are not visible on aerial imagery and not identified in publicly available maps) may be revealed during future site level investigations. Although these disruptions may last only for the duration of project construction activity at a particular work area, such disruptions may persist for 7 to 15 years, depending on the facility being constructed. The effect would be permanent if the disruption to the infrastructure remains after construction is complete. This impact would be potentially significant. Mitigation Measure AG-3: Replacement or Relocation of Affected Infrastructure Supporting Agricultural Properties would require that any agricultural infrastructure that is disrupted by construction activities would be relocated or replaced to support continued agricultural activities; otherwise, the affected landowner would be fully compensated for any financial losses resulting from the disruption. Furthermore, as required under Mitigation Measure BIO-2c: Electrical Power Line Support Placement, the installation of power transition and distribution lines and necessary appurtenances within agricultural areas would require that DWR incorporate BMPs, where feasible, to minimize crop damage, reduce agricultural land impacts, and reduce the potential for interference with farm machinery. The impact would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Aesthetics and Visual Resources				
Impact AES-4: Create New Sources of Substantial Light or Glare That Would Adversely Affect Daytime or Nighttime Views of the Construction Areas or Permanent Facilities	Significant	MM AES-1b: Apply Aesthetic Design Treatments to Project Structures MM AES-1c: Implement Best Management Practices in Project Landscaping Plan MM AES-4a: Limit Construction Outside of Daylight Hours within 0.25 Mile of Residents at the Intakes MM AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction	Less Than Significant	Once construction is completed and the project is in operation, the Project facilities would use limited nighttime lighting. Sources of glare would be blocked by levees, reduced by distance, or fleeting to motorists. Any building materials that would have potential to reflect glare would have a matte or nonreflective finish that would reduce or inhibit glare. Therefore, permanent, postconstruction impacts of light and glare attributable to the project would be less than significant.

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
		MM AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences		Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Transportation				
Impact TRANS-4: Result in Inadequate Emergency Access	Significant	MM TRANS-1: Implement Site-Specific Construction Transportation Demand Management Plan and Transportation Management Plan	Less Than Significant	Construction of the Project would increase the potential for emergency access conflicts in the vicinity of construction sites at multiple locations and would increase the potential for emergency vehicle delays on roadways used to access construction sites or in the vicinity of proposed roadway improvements. Even with the roadway and access road improvements incorporated into the Project, this potential is considered to be a significant impact because (1) a substantial increase in the volume of additional construction-related vehicle trips would occur on the regional transportation system and on Delta roadways during the construction period, and (2) up to 18 access points have the potential to experience emergency vehicle access delay due to ingress and egress of construction vehicles and roadway and bridge construction for the Project. The traffic management plan (TMP) actions in Mitigation Measure TRANS-1: Implement Site-Specific Construction Transportation Demand Management Plan and Transportation Management Plan would reduce this impact to a less-than-significant level by providing specific actions and coordination with emergency responders at construction sites to maintain adequate emergency access in the vicinity of construction sites. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Air Quality and Greenhouse Gases				
Impact AQ-1: Result in Impacts on Regional Air Quality within the Sacramento Metropolitan Air Quality Management District	Significant	MM AQ-1: Offset Construction-Generated Criteria Pollutants in the Sacramento Valley Air Basin	Less Than Significant	Impacts associated with fugitive dust emissions would be minimized through a dust control plan (Environmental Commitment EC-11: Fugitive Dust Control) and BMPs at new concrete batch plants (Environmental Commitment EC-12: On-Site Concrete Batching Plants). Exhaust-related pollutants would be reduced through use of zero-emissions equipment and vehicles (where feasible), renewable diesel, Tier 4 diesel engines, newer on-road and marine engines, and other BMPs, as required by Environmental Commitments EC-7: Off-Road Heavy-Duty Engines through EC-10: Marine Vessels and EC-13: DWR Best Management Practices to Reduce GHG Emissions. These environmental commitments would minimize air quality impacts through application of on-site controls to reduce construction emissions; however, even with these commitments, exceedances of SMAQMD's thresholds would occur, and the project would contribute a significant level of regional NOX and particulate matter pollution within the SVAB. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact AQ-2: Result in Impacts on Regional Air Quality within the San Joaquin Valley Air Pollution Control District	Significant	MM AQ-2: Offset Construction-Generated Criteria Pollutants in the San Joaquin Valley Air Basin	Less Than Significant	Based on the performance of current incentive programs and reasonably foreseeable future growth, SJVAPCD has confirmed that enough emissions reduction credits would be available to offset emissions generated by the project for all years in excess of SJVAPCD's thresholds (McLaughlin pers. comm.). Because SJVAPCD's thresholds were established to prevent emissions from new projects in the SJVAB from contributing to CAAQS or NAAQS violations, mitigating emissions below the threshold levels would avoid potential conflicts with the ambient air quality plans and ensure that project construction would not contribute a significant level of air pollution such that regional air quality within the SJVAB would be degraded. Accordingly, the impact would be less than significant with mitigation.

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
				Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact AQ-3: Result in Impacts on Regional Air Quality within the Bay Area Air Quality Management District	Significant	MM AQ-3: Offset Construction-Generated Criteria Pollutants in the San Francisco Bay Area Air Basin	Less Than Significant	Based on the performance of current incentive programs and reasonably foreseeable future growth, BAAQMD has confirmed that Mitigation Measure AQ-3: Offset Construction-Generated Criteria Pollutants in the San Francisco Bay Area Air Basin is technically feasible (Kirk pers. comm.). Because BAAQMD's thresholds were established to prevent emissions from new projects in the SFBAAB from contributing to CAAQS or NAAQS violations, mitigating emissions below the threshold levels would avoid potential conflicts with the ambient air quality plans and ensure that project construction would not contribute a significant level of air pollution such that regional air quality within the SFBAAB would be degraded. Accordingly, the impact would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact AQ-9: Result in Impacts on Global Climate Change from Construction and O&M	Significant	MM AQ-9: Develop and Implement a GHG Reduction Plan to Reduce GHG Emissions from Construction and Net CVP Operational Pumping to Net Zero	Less Than Significant	The CEQA Guidelines generally offer two paths to evaluating GHG emissions impacts in CEQA documents: • Projects can tier off a plan or similar document for the reduction of GHG emissions (as defined in CEQA Guidelines § 15183.5(b)) where the plan addresses GHG emissions for a range of project types within a geographic area. • Projects can evaluate and determine significance by calculating GHG emissions and assessing their significance using a performance standard (CEQA Guidelines § 15064.4). As discussed in Section 23.3.2, Thresholds of Significance, this analysis uses both evaluation pathways to appropriately consider the planning and regulatory frameworks most applicable to the project's emissions sources. O&M and SWP pumping activities are covered by DWR's Update 2020, which was prepared by DWR to provide a departmental strategy for meeting the State's 2030 and 2045 emissions reduction goals articulated in SB 32 and EO B-55-18 (and subsequently, AB 1279), respectively. Update 2020 is a plan for the reduction of GHG emissions and as such, GHG emissions from project O&M and SWP pumping activities are eligible to tier from the environmental document (California Department of Water Resources 2020b) for Update 2020 to evaluate project-level significance. Construction of the Project is not covered by DWR's Update 2020 and, therefore, is not eligible for tiering to evaluate whether project-level GHG emissions would result in a significant impact under CEQA. Accordingly, this analysis evaluates the significance of GHG emissions resulting from construction and displaced purchases of CVP electricity against a net zero threshold. As discussed in Section 23.3.2, Thresholds of Significance, a net zero threshold was selected by DWR given the project's long-term implementation timeframe and in recognition of scientific evidence that concludes carbon neutrality must be achieved by mid-century to avoid the most severe climate change impacts. While by different mechanisms, both pathways assess the Project against the larger threshold of carbon neutrality by 2045 (or earlier), as discussed below, which is consistent with the State's long-term climate change goal and emissions reduction trajectory (AB 1279 and EO B-55-18).

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
				The Project would not affect DWR's established emissions reduction goals or baseline (1990) emissions and therefore would not result in a change in total DWR emissions that would be considered significant. The Project would not conflict with any of DWR's specific action GHG emissions reduction measures and implements all applicable project-level GHG emissions reduction measures as set forth in Update 2020. The Project is, therefore, consistent with the analysis performed in Update 2020. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact AQ-10: Result in Impacts on Global Climate Change from Land Use Change	Significant	MM CMP: Compensatory Mitigation Plan	Less Than Significant	The impact would be less than significant under CEQA for the Project because cumulative emissions from land use change are projected to decrease relative to baseline by 2070. Initial construction activities would result in GHG increases early in project implementation. The Project would achieve a yearly net negative emissions rate approximately 4 to 6 years after groundbreaking, and a cumulative net negative GHG impact 15 to 28 years later. As shown in Table 23-76, cumulative net reductions projected through 2070 are estimated to range from 16,235 to 30,150 metric tons CO2e for the Project. Because cumulative GHG emissions from land use change would not exceed net zero, the project would not result in a significant impact on GHG emissions or impede DWR's or the state's ability to achieve their GHG reduction goals. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Hazards, Hazardous Materials, and Wildfire				
Impact HAZ-2: Create a Significant Hazard to the Public or the Environment through Reasonably Foreseeable Upset and Accident Conditions Involving the Release of Hazardous Materials into the Environment	Significant	MM HAZ-2: Perform a Phase I Environmental Site Assessment Prior to Construction Activities and Remediate	Less Than Significant	Overall, considering the potential for release of hazardous materials during construction, operations and maintenance of the Project, the potential exists for accidental spills and exposure to hazardous materials to occur. The environmental commitments could partially reduce impacts related to hazardous materials but not to a less-than-significant level because of the uncertainty that exists about the locations and nature of potential hazardous materials sites and the potential for construction worker and public exposure to hazardous materials. Implementing Mitigation Measure HAZ-2: Perform a Phase I Environmental Site Assessment Prior to Construction Activities and Remediate would include a Phase I environmental site assessment before construction, the identification and evaluation of potential sites of concern within the construction footprint, and the development of a remediation plan before construction and operations commence. This would reduce all impacts related to accidental release of hazardous materials into the environment to a less-than-significant level with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact HAZ-4: Be Located on a Site That Is Included on a List of Hazardous Materials Sites Compiled Pursuant to Government Code Section 65962.5 and, as a Result, Create a Substantial Hazard to the Public or the Environment	Significant	MM HAZ-2: Perform a Phase I Environmental Site Assessment Prior to Construction Activities and Remediate	Less Than Significant	The Project would construct facilities on or near known Cortese List sites. Ground-disturbing activities and dewatering at or near sites that have not been fully remediated could expose workers and the public to contaminated soil and/or groundwater resulting in adverse health effects. The potential for exposure during construction would be a significant impact because of the proximity of these sites to Project and the potential for hazardous materials exposure during site excavation and grading. Operations and maintenance activities of the Project would not result in employee exposure because a plan (e.g., Environmental Site Assessment) for remediating hazardous sites would be implemented prior to project operations. Mitigation Measure HAZ-2: Perform a Phase I Environmental Site Assessment Prior to Construction

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
				Activities and Remediate would reduce the potential for significant impacts to a less-than-significant level by requiring preconstruction investigations and remediation to reduce the potential for encountering contaminants and other hazardous materials at construction sites. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact HAZ-5: Result in a Safety Hazard Associated with an Airport or Private Airstrip	Significant	MM HAZ-5: Wildlife Hazards Management Plan and Wildlife Deterrents	Less Than Significant	Airspace safety hazards occur when project components, such as buildings or construction equipment, encroach on the airspace of an airport runway. The locations of airports within 2 miles of the Project are shown on Figure 25-5. Eleven airports are within 2 miles of the construction footprint. No aspect of the Project would include equipment or structures that would be taller than 200 feet. Also pursuant to the State Aeronautics Act, DWR would adhere to FAA and Caltrans recommendations and comply with the recommendations of the OE/AAA. In areas where the project intersects with the Byron Airport influence area, construction of structures more than 100 feet above ground level could cause an obstruction or hazard to air navigation. However, construction would not introduce equipment or temporary structures in locations that could obstruct an airport or conflict with airport land uses. In addition, consultation with the Contra Costa Airport Land Use Commission would ensure that potential impacts of airspace interference would be reduced. As such, impacts on airports within 2 miles of the construction footprint due to construction of the Project would be less than significant. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Impact HAZ-6: Impair Implementation of or Physically Interfere with an Adopted Emergency Response Plan or Emergency Evacuation Plan	Significant	MM TRANS-1: Implement Site-Specific Construction Transportation Demand Management Plan and Transportation Management Plan	Less Than Significant	With Mitigation Measure TRANS-1, additional evaluations and discussions with local agencies would be required during the design phase to determine the most appropriate method to coordinate between project-provided emergency response services at the construction sites and integration with local agencies. Because project construction would not take place without a Transportation Demand Management Plan and good-faith coordination with local agencies on appropriate emergency response services, impacts from construction or operations and maintenance of any of the alternatives would be reduced to less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Public Health				
Impact PH-1: Increase in Vector-Borne Diseases	Significant	MM PH-1a: Avoid Creating Areas of Standing Water During Preconstruction Future Field Investigations and Project Construction MM PH-1b: Develop and Implement a Mosquito Management Plan for Compensatory Mitigation Sites on Bouldin Island and at I-5 Ponds	Less Than Significant	Operation and maintenance of the water conveyance facilities would not be expected to result in the creation of potentially suitable mosquito breeding habitat and thus would not likely increase the public's exposure to vector-borne diseases in the study area relative to existing conditions. Mitigation Measure PH-1a: Avoid Creating Areas of Standing Water During Preconstruction, Field Investigations, and Project Construction would minimize the potential for any impact on public health related to increasing suitable vector habitat within the study area during construction and reduce this impact to a less-than-significant level by reducing suitable mosquito habitat at Project facilities.

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA	Proposed Mitigation	Impact Conclusion After Mitigation- CEQA	Findings of Fact
				Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.
Paleontological Resources				
Impact PALEO-1: Cause Destruction of a Unique Paleontological Resource as a Result of Surface Ground Disturbance	Significant	MM PALEO-1a: Prepare and Implement a Monitoring and Mitigation Plan for Paleontological Resources MM PALEO-1b: Educate Construction Personnel in Recognizing Fossil Material	Less Than Significant	The potential for destruction of unique paleontological resources, as defined in Section 28.3.2, Thresholds of Significance, in those portions of the study area affected by project construction would constitute a significant impact under CEQA because excavation for project facilities would occur in locations known to be sensitive for paleontological resources and localized project excavation would be considerable. Mitigation Measures PALEO-1a: Prepare and Implement a Monitoring and Mitigation Plan for Paleontological Resources, and PALEO-1b: Educate Construction Personnel in Recognizing Fossil Material would reduce the impacts to a less-than-significant level by ensuring that a qualified professional paleontologist would develop a monitoring and mitigation plan and determine which activities would occur in units sensitive for paleontological resources; educating construction personnel in recognizing paleontological resources; and having qualified monitors in place to monitor for paleontological resources and temporarily stop construction (per the PRMMP) should paleontological resources be discovered. For excavation at the tunnel shafts where in situ monitoring cannot occur, the shaft spoils would be monitored. The level of impact for all alignment alternatives would be similar but would vary in magnitude based on the amount of excavation that would occur (Table 28-4). In summary, the impacts of surface-related ground disturbance would be less than significant with mitigation. Findings: Changes or alterations have been required in, or incorporated into, the project that avoid the significant environmental effect as identified in the Final EIR. Impacts will be less than significant with mitigation.

Table 3: Project Impacts that are Less-than-Significant/No Impact Before Mitigation

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA
Flood Protection	
Impact FP-1: Cause a Substantial Increase in Water Surface Elevations of the Sacramento River between the American River Confluence and Sutter Slough	Less than Significant
Impact FP-2: Alter the Existing Drainage Pattern of the Site or Area, including through the Alteration of the Course of a Stream or River, or Substantially Increase the Rate or Amount of Surface Runoff in a Manner That Would Result in Flooding On- or Off-Site or Impede or Redirect Flood Flows	Less than Significant
Groundwater	
Impact GW-1: Changes in Stream Gains or Losses in Various Interconnected Stream Reaches	Less than Significant
Impact GW-2: Changes in Groundwater Elevations	Less than Significant
Impact GW-3: Reduction in Groundwater Levels Affecting Supply Wells	Less than Significant
Impact GW-4: Changes to Long-Term Change in Groundwater Storage	Less than Significant
Impact GW-5: Increases in Groundwater Elevations near Project Intake Facilities Affecting Agricultural Drainage	Less than Significant
Impact GW-6: Damage to Major Conveyance Facilities Resulting from Land Subsidence	Less than Significant
Impact GW-7: Degradation of Groundwater Quality	Less than Significant
Water Quality	
Impact WQ-1: Impacts on Water Quality Resulting from Construction of the Water Conveyance Facilities	Less than Significant
Impact WQ-2: Effects on Boron Resulting from Facility Operations and Maintenance	Less than Significant
Impact WQ-3: Effects on Bromide Resulting from Facility Operations and Maintenance	Less than Significant
Impact WQ-4: Effects on Chloride Resulting from Facility Operations and Maintenance	Less than Significant
Impact WQ-5: Effects on Electrical Conductivity Resulting from Facility Operations and Maintenance	Less than Significant
Impact WQ-7: Effects on Nutrients Resulting from Facility Operations and Maintenance	Less than Significant
Impact WQ-8: Effects on Organic Carbon Resulting from Facility Operations and Maintenance	Less than Significant
Impact WQ-9: Effects on Dissolved Oxygen Resulting from Facility Operations and Maintenance	Less than Significant
Impact WQ-10: Effects on Selenium Resulting from Facility Operations and Maintenance	Less than Significant
Impact WQ-11: Effects on Pesticides Resulting from Facility Operations and Maintenance	Less than Significant
Impact WQ-12: Effects on Trace Metals Resulting from Facility Operations and Maintenance	Less than Significant
Impact WQ-13: Effects on Turbidity/Total Suspended Solids Resulting from Facility Operations and Maintenance	Less than Significant
Impact WQ-14: Effects on Cyanobacteria Harmful Algal Blooms Resulting from Facility Operations and Maintenance	Less than Significant
Impact WQ-15: Risk of Release of Pollutants from Inundation of Project Facilities	Less than Significant
Impact WQ-16: Effects on Drainage Patterns as a Result of Project Facilities	Less than Significant
Impact WQ-17: Consistency with Water Quality Control Plans	No Impact
Geology and Seismicity	
Impact GEO-1: Loss of Property, Personal Injury, or Death from Structural Failure Resulting from Rupture of a Known Earthquake Fault or Based on Other Substantial Evidence of a Known Fault	Less than Significant
Impact GEO-2: Loss of Property, Personal Injury, or Death from Strong Earthquake-Induced Ground Shaking	Less than Significant
Impact GEO-3: Loss of Property, Personal Injury, or Death from Earthquake-Induced Ground Failure, including Liquefaction and Related Ground Effects	Less than Significant

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA
Impact GEO-4: Loss of Property, Personal Injury, or Death from Ground Settlement, Slope Instability, or Other Ground Failure	Less than Significant
Impact GEO-5: Loss of Property, Personal Injury, or Death from Structural Failure Resulting from Project-Related Ground Motions	Less than Significant
Impact GEO-6: Loss of Property, Personal Injury, or Death from Seiche or Tsunami	Less than Significant
Soils	
Impact SOILS-1: Accelerated Soil Erosion Caused by Vegetation Removal and Other Disturbances as a Result of Constructing the Proposed Water Conveyance Facilities	Less than Significant
Impact SOILS-2: Loss of Topsoil from Excavation, Overcovering, and Inundation as a Result of Constructing the Proposed Water Conveyance Facilities	Less than Significant
Impact SOILS-3: Property Loss, Personal Injury, or Death from Instability, Failure, and Damage as a Result of Constructing the Proposed Water Conveyance Facilities on or in Soils Subject to Subsidence	Less than Significant
Impact SOILS-4: Risk to Life and Property as a Result of Constructing the Proposed Water Conveyance Facilities in Areas of Expansive or Corrosive Soils	Less than Significant
Fish and Aquatic Resources	
Impact AQUA-4: Effects of Operations and Maintenance of Water Conveyance Facilities on Central Valley Fall-Run/Late Fall–Run Chinook Salmon	Less than Significant
Impact AQUA-8: Effects of Operations and Maintenance of Water Conveyance Facilities on Southern DPS Green Sturgeon	Less than Significant
Impact AQUA-9: Effects of Operations and Maintenance of Water Conveyance Facilities on White Sturgeon	Less than Significant
Impact AQUA-10: Effects of Operations and Maintenance of Water Conveyance Facilities on Pacific Lamprey and River Lamprey	Less than Significant
Impact AQUA-11: Effects of Operations and Maintenance of Water Conveyance Facilities on Native Minnows (Sacramento Hitch, Sacramento Splittail, Hardhead, and Central California Roach)	Less than Significant
Impact AQUA-12: Effects of Operations and Maintenance of Water Conveyance Facilities on Starry Flounder	Less than Significant
Impact AQUA-13: Effects of Operations and Maintenance of Water Conveyance Facilities on Northern Anchovy	Less than Significant
Impact AQUA-14: Effects of Operations and Maintenance of Water Conveyance Facilities on Striped Bass	Less than Significant
Impact AQUA-15: Effects of Operations and Maintenance of Water Conveyance Facilities on American Shad	Less than Significant
Impact AQUA-16: Effects of Operations and Maintenance of Water Conveyance Facilities on Threadfin Shad	Less than Significant
Impact AQUA-17: Effects of Operations and Maintenance of Water Conveyance Facilities on Black Bass	Less than Significant
Impact AQUA-18: Effects of Operations and Maintenance of Water Conveyance Facilities on California Bay Shrimp	Less than Significant
Impact AQUA-19: Effects of Operations and Maintenance of Water Conveyance Facilities on Southern Resident Killer Whale	Less than Significant
Impact AQUA-20: Effects of Construction of Water Conveyance Facilities on California Sea Lion	Less than Significant
Terrestrial Biological Resources	
Impact BIO-6: Impacts of the Project on Nontidal Brackish Emergent Wetland	No Impact
Impact BIO-15: Impacts of the Project on Conservancy Fairy Shrimp	No Impact
Impact BIO-17: Impacts of the Project on Sacramento and Antioch Dunes Anthicid Beetles	No Impact
Impact BIO-19: Impacts of the Project on Delta Green Ground Beetle	No Impact
Impact BIO-43: Impacts of the Project on Suisun Song Sparrow and Saltmarsh Common Yellowthroat	No Impact
Impact BIO-49: Impacts of the Project on Salt Marsh Harvest Mouse	No Impact
Impact BIO-50: Impacts of the Project on Riparian Brush Rabbit	No Impact
Impact BIO-52: Impacts of Invasive Species Resulting from Project Construction and Operations on Established Vegetation	Less than Significant
Impact BIO-57: Impacts of the Project on Monarch Butterfly	Less than Significant
Land Use	
Impact LU-1: Displacement of Existing Structures and Residences and Effects on Population and Housing	Less than Significant

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA
Impact LU-2: Incompatibility with Applicable Land Use Designations, Goals, and Policies, Adopted for the Purpose of Avoiding or Mitigating an Environmental Effect as a Result of the Project	Less than Significant
Impact LU-3: Create Physical Structures Adjacent to and through a Portion of an Existing Community that Would Physically Divide the Community as a Result of the Project	No Impact
Impact REC-1: Increase the Use of Existing Neighborhood and Regional Parks or Other Recreational Facilities Such That Substantial Physical Deterioration of the Facility Would Occur or Be Accelerated	Less than Significant
Transportation	
Impact TRANS-2: Conflict with a Program, Plan, Ordinance, or Policy Addressing the Circulation System	Less than Significant
Impact TRANS-5: Potential Effects on Marine Navigation Caused by Construction, Operation, and Maintenance of Intakes	Less than Significant
Public Services and Utilities	
Impact UT-1: Result in Substantial Physical Impacts Associated with the Provision of, or the Need for, New or Physically Altered Governmental Facilities, the Construction of Which Could Cause Significant Environmental Impacts on Public Services Including Police Protection, Fire Protection, Public Schools, and Other Public Facilities (e.g., Libraries, Hospitals)	Less than Significant
Impact UT-2: Require or Result in the Relocation or Construction of New or Expanded Service System Infrastructure, the Construction or Relocation of Which Could Cause Significant Environmental Impacts for Any Service Systems Such as Water, Wastewater Treatment, Stormwater Drainage, Electric Power Facilities, Natural Gas Facilities, and Telecommunications Facilities	Less than Significant
Impact UT-3: Exceed the Capacity of the Wastewater Treatment Provider(s) that Would Serve the Alternative's Anticipated Demand in Addition to the Provider's Existing Commitments	Less than Significant
Impact UT-4: Generate Solid Waste in Excess of Federal, State or Local Standards, or Be in Excess of the Capacity of Local Infrastructure, or Otherwise Impair the Attainment of Solid Waste Reduction Goals	Less than Significant
Energy	
Impact ENG-1: Result in Substantial Significant Environmental Impacts Due to Wasteful, Inefficient, or Unnecessary Consumption of Energy Resources during Project Construction or Operation	Less than Significant
Impact ENG-2: Conflict with or Obstruct Any State/Local Plan, Goal, Objective, or Policy for Renewable Energy or Energy Efficiency	No Impact
Air Quality and Greenhouse Gases	
Impact AQ-4: Result in Impacts on Air Quality within the Yolo-Solano Air Quality Management District	Less than Significant
Impact AQ-6: Result in Exposure of Sensitive Receptors to Substantial Toxic Air Contaminant Emissions	Less than Significant
Impact AQ-7: Result in Exposure of Sensitive Receptors to Asbestos, Lead-Based Paint, or Fungal Spores That Cause Valley Fever	Less than Significant
Impact AQ-8: Result in Exposure of Sensitive Receptors to Substantial Odor Emissions	Less than Significant
Impact AQ-10: Result in Impacts on Global Climate Change from Land Use Change	Less than Significant
Noise and Vibration	
Impact NOI-2: Generate Excessive Groundborne Vibration or Groundborne Noise Levels	Less than Significant
Impact NOI-3: Place Project-Related Activities in the Vicinity of a Private Airstrip or an Airport Land Use Plan, or, Where Such a Plan Has Not Been Adopted, within 2 Miles of a Public Airport or Public Use Airport, Resulting in Exposure of People Residing or Working in the Project Area to Excessive Noise Levels	No Impact
Hazards, Hazardous Materials, and Wildfire	
Impact HAZ-1: Create a Substantial Hazard to the Public or the Environment through the Routine Transport, Use, or Disposal of Hazardous Materials	Less than Significant
Impact HAZ-3: Expose Sensitive Receptors at an Existing or Proposed School Located within 0.25 Mile of Project Facilities to Hazardous Materials, Substances, or Waste	No Impact
Impact HAZ-5: Result in a Safety Hazard Associated with an Airport or Private Airstrip	Less than Significant
Impact HAZ-7: Expose People or Structures, Either Directly or Indirectly, to a Substantial Risk of Loss, Injury, or Death Involving Wildland Fires	Less than Significant

Potential Project Impact	Impact Conclusions Before Mitigation- CEQA
Public Health	
Impact PH-2: Exceedance(s) of Water Quality Criteria for Constituents of Concern Such That Drinking Water Quality May Be Affected	Less than Significant
Impact PH-3: Substantial Mobilization of or Increase in Constituents Known to Bioaccumulate	Less than Significant
Impact PH-4: Adversely Affect Public Health Due to Exposing Sensitive Receptors to New Sources of EMF	Less than Significant
Impact PH-5: Impact Public Health Due to an Increase in Microcystis Bloom Formation	Less than Significant
Mineral Resources	
Impact MIN-1: Loss of Availability of Locally Important Natural Gas Wells as a Result of the Project	No Impact
Impact MIN-2: Loss of Availability of Extraction Potential from Natural Gas Fields as a Result of the Project	No Impact
Impact MIN-3: Loss of Availability of Locally Important Aggregate Resources (Mines and MRZs) as a Result of the Project	No Impact
Impact MIN-4: Loss of Availability of Locally Important Aggregate Resources as a Result of the Project	No Impact

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Exhibit B

Findings Regarding the Public Trust Doctrine

A. Introduction

Actions by state agencies involving the planning and allocation of water resources, including but not limited to actions involving nonnavigable tributaries[1] and groundwater[2] that impact public trust uses on navigable waters, implicate the common law "public trust doctrine."[3] "The range of public trust uses is broad, encompassing not just navigation, commerce, and fishing, but also the public right to hunt, bathe or swim. Furthermore, the concept of a public use is flexible, accommodating changing public needs."[4] "For example, an increasingly important public use is the preservation of trust lands 'in their natural state…'"[5]

The doctrine "is an affirmation of the duty of the state to protect the people's common heritage of streams, lakes, marshlands and tidelands, surrendering that right of protection only in rare cases when the abandonment of that right is consistent with the purposes of the trust."[6] "[T]raceable to Roman law," the doctrine "rests on several related concepts. First, that the public rights of commerce, navigation, fishery, and recreation are so intrinsically important and vital to free citizens that their unfettered availability to all is essential in a democratic society…"[7] Second, "certain interests are so particularly the gifts of nature's bounty that they ought to be reserved for the whole of the populace." [8] "Finally, there is often a recognition … that certain uses have a peculiarly public nature that makes their adaptation to private use inappropriate." [9] For example, it is "thought to be incumbent upon the government to regulate water uses for the general benefit of the community and to take account thereby of the public nature and the interdependency which the physical quality of the resource implies."[10]

Importantly, the public doctrine does not operate as an absolute protection of the resources that come under its ambit.[11] Under the doctrine, "[t]he state has an affirmative duty to take the public

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[1] *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419, 437 (*National Audubon*) [holding the public trust doctrine protects navigable waters "from harm caused by diversion of nonnavigable tributaries"].
[2] *Env't L. Found. v. State Water Res. Control Bd.* (2018) 26 Cal.App.5th 844, 859 ["[T]he public trust doctrine applies if extraction of groundwater adversely impacts a navigable waterway to which the public trust doctrine does apply."].
[3] *National Audubon*, *supra*, 33 Cal.3d at p. 446; *Env't L. Found*., *supra*, 26. Cal.App.5th at p. 859 [the "determinative fact" in evaluating whether a state agency action implicates the public trust doctrine "is the impact of the activity on the public trust resource"].
[4] *San Francisco Baykeeper, Inc. v. State Lands Com*. (2015) 242 Cal.App.4th 202, 233 (*SF Baykeeper*), citing *City of Berkeley v. Superior Court* (1980) 26 Cal.3d 515, 521, and *National Audubon*, *supra*, 33 Cal.3d at p. 434.
[5] *SF Baykeeper*, *supra*, 242 Cal.App.4th at p. 233, quoting *National Audubon*, *supra*, 33 Cal.3d at pp. 434-435.
[6] *Id.* at p. 441.
[7] *Zack's Inc. v. City of Sausalito* (2008) 165 Cal.App.4th 1163, 1175-1176 (*Zack's*), citing *Martin v. Waddell* (1842) 41 U.S. 367, 413-414.
[8] *Zack's, supra,* 65 Cal.App.4th at p. 1176, quoting Sax, *The Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention* (1970) 68 Mich. L.Rev. 471, 484–485.
[9] *Ibid.*
[10] *Ibid.*
[11] *Santa Barbara Channelkeeper v. City of San Buenaventura* (2018) 19 Cal.App.5th 1176, 1186 ["[P]ublic trust interests, like other interests in water use in California, are not absolute."].

trust into account in the planning and allocation of water resources, and to protect public trust uses whenever *feasible*."[12] "[B]oth the public trust doctrine and the water rights system embody important precepts which make the law more responsive to the diverse needs and interests involved in the planning and allocation of water resources. To embrace one system of thought and reject the other would lead to an unbalanced structure, one which would either decry as a breach of trust appropriations essential to the economic development of this state, or deny any duty to protect or even consider the values promoted by the public trust."[13] Thus, "[a]s a matter of practical necessity[,] the state may have to approve appropriations despite foreseeable harm to public trust uses. In so doing, however, the state must bear in mind its duty as trustee to consider the effect of the taking on the public trust," and "to preserve, so far as consistent with the *public interest*, the uses protected by the trust."[14]

Similar principles apply to agency actions affecting fish and wildlife in California. Indeed, in addition to the common law public trust doctrine, there is "a public trust duty derived from statute, specifically [California] Fish and Game Code section 711.7, pertaining to fish and wildlife."[15] The California Supreme Court observed that "[t]here is doubtless an overlap between the two public trust doctrines—the protection of water resources is intertwined with the protection of wildlife," though "the duty of government agencies to protect wildlife is primarily statutory."[16] "[W]hatever its historical derivation, it is clear that the public trust doctrine encompasses the protection of undomesticated birds and wildlife. They are natural resources of inestimable value to the community as a whole."[17]

In addition, it is the policy of the "state that all state agencies … shall seek to conserve endangered species and threatened species and shall utilize their authority in furtherance of the purposes of the" California Endangered Species Act.[18] State agencies should not approve projects that would jeopardize the continued existence of any endangered species or threatened species if there are reasonable and prudent alternatives available consistent with conserving the species or its habitat that would prevent jeopardy.[19]

Although the legal principles set forth above are well established, "[t]here is no set 'procedural matrix' for determining state compliance with the public trust doctrine."[20] While "the public trust doctrine operates independently of CEQA[,]"[21] courts have recognized that CEQA review that includes an adequate public trust analysis can satisfy the public trust doctrine.[22] Notably, CEQA

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[12] *National Audubon*, *supra*, 33 Cal.3d at p. 446, italics added; *State Water Res. Control Bd. Cases* (2006) 136 Cal.App.4th 674, 778 [in determining whether it is "feasible" to protect public trust values, an agency "must determine whether protection of those values, or what level of protection, is 'consistent with the public interest'"].
[13] *Id.* at p. 445.
[14] *Id.* at pp. 446-447, italics added.
[15] *Environmental Protection and Information Center v. California Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 515.
[16] *Ibid.*
[17] *Center for Biological Diversity, Inc. v. FPL Group, Inc.* (2008) 166 Cal.App.4th 1349, 1363.
[18] Cal. Fish & G. Code, § 2055.
[19] Cal. Fish & G. Code, § 2053.
[20] *SF Baykeeper*, *supra*, 242 Cal.App.4th at p. 234, quoting *Citizens for East Shore Parks v. California State Lands Commission* (2011) 202 Cal.App.4th 549, 576 (*Citizens for East Shore Parks*).
[21] *World Bus. Acad. v. California State Lands Com* (2018) 24 Cal.App.5th 476, 510 (*World Bus.*).
[22] See *San Francisco Baykeeper, Inc. v. State Lands Com.* (2018) 29 Cal.App.5th 562, 581 (*SF Baykeeper II*); see also *Citizens for East Shore Parks*, *supra*, 202 Cal.App.4th at pp. 576-577 [stating that "*National Audubon* and *Carstens* indicate evaluating project impacts within a regulatory scheme like CEQA is sufficient 'consideration' for public

requires the imposition of "feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment[,]"[23] including those on water-related resources, such as aquatic and terrestrial species and their habitats.

Here, the Final Environmental Impact Report (EIR), as certified by DWR, sets forth sufficient analyses to satisfy the public trust doctrines. Therefore, the Final EIR will assist both the State Water Resources Control Board (Board) and the California Department of Fish and Wildlife (CDFW), as CEQA responsible agencies, to satisfy, as applicable, obligations under the common law public trust doctrine and the statutory public trust doctrine aimed at protecting wildlife and fish species. [24]

Finally, the state is the trustee of the public trust for the benefit of the people.[25] In *National Audubon*, the California Supreme Court held that a "responsible body" must take the public trust into account and, there, identified the Board as the appropriate agency.[26] Here, DWR's approval of the Delta Conveyance Project Alternative 5, Bethany Reservoir Alignment, (hereafter referred to as the "Project") does not constitutes the allocation of water resources. Moreover, DWR may not commence construction of the Project unless the Board issues an order approving a new point of diversion of the State Water Project (SWP).[27] Therefore, DWR's approval of the Project does not allow changes in allocation of water resources or physical Project construction with the potential to affect public trust uses and resources.[28] For this reason, DWR acknowledges that DWR may not be the state agency with the common law fiduciary duty to make public trust findings on the Project. Nevertheless, DWR has exercised its discretion to provide these findings with the understanding that, even if they are not required of DWR, the analysis should assist the Board and CDFW to satisfy, as applicable, obligations under the common law public trust doctrine as well as the statutory public trust doctrine aimed at protecting wildlife and fish species.

B. Compliance with Public Trust Doctrines

DWR as CEQA lead agency has developed environmental commitments, best management practices, compensatory mitigation, and mitigation measures intended to, as required by CEQA, reduce otherwise "significant environmental effects" of the Project, including potential Project effects on public trust uses and resources, to less-than-significant levels whenever feasible. As demonstrated in Volume 1 of the Final EIR and discussed further in responses to comments in Volume 2 of the Final EIR, Project effects that are less than significant or have been mitigated to a less-than-significant level include, but are not limited to, effects on the following public trust uses and

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trust purposes"], citing *National Audubon*, *supra*, 33 Cal.3d at p. 446, fn. 27, and *Carstens v. Cal. Coastal Com.* (1986) 182 Cal.App.3d 277, 289-291 (*Carstens*); but see *SF Baykeeper*, *supra*, 242 Cal.App.4th at p. 242 [holding the State Lands Commission failed to satisfy the public trust doctrine where it did not affirmatively take the public trust into account "in the context of a CEQA review or otherwise"].

[23] CEQA Guidelines, § 15021, subd. (a)(2); see also *id.*, § 15002, subd. (a)(3).

[24] See *SF Baykeeper II*, *supra*, 29 Cal.App.5th at p. 581 [upholding express public trust findings made by the State Lands Commission for leases authorizing a private lessee to mine sand from the San Francisco Bay where the findings were supported by substantial evidence in the project's EIR].

[25] *National Audubon*, *supra*, 33 Cal.3d at p. 434.

[26] *Id*. at pp. 447-448.

[27] Wat. Code, § 85088.

[28] Compare *Env't L. Found*., *supra*, 26. Cal.App.5th at p. 852 [holding that both the Board and County of Siskiyou had a "common law duty to consider the public trust interests before allowing groundwater extraction that potentially harms a navigable waterway"].)

resources: navigation, fish and aquatic resources, terrestrial biological resources, water-related recreation, and water quality.

As demonstrated in the EIR, substantial evidence supports the conclusion that all potential project impacts on navigation, fish and aquatic resources, terrestrial biological resources, water-related recreation, and water quality are less than significant or can be mitigated to less-than-significant levels, thereby resulting in protection of the public trust resources. However, the Project will result in several significant and unavoidable environmental impacts. Specifically, the EIR concludes that the Project will result in the following sixteen significant and unavoidable environmental impacts:

- Impact AG-1: Convert a Substantial Amount of Prime Farmland, Unique Farmland, Farmland of Local Importance, or Farmland of Statewide Importance as a Result of Construction of Water Conveyance Facilities
- Impact AG-2: Convert a Substantial Amount of Land Subject to Williamson Act Contract or under Contract in Farmland Security Zones to a Nonagricultural Use as a Result of Construction of Water Conveyance Facilities
- Impact AES-1: Substantially Degrade the Existing Visual Character or Quality of Public Views (from Publicly Accessible Vantage Points) of the Construction Sites and Visible Permanent Facilities and Their Surroundings in Nonurbanized Areas
- Impact AES-2: Substantially Damage Scenic Resources including, but Not Limited to, Trees, Rock Outcroppings, and Historic Buildings Visible from a State Scenic Highway
- Impact AES-3: Have Substantial Adverse Impacts on Scenic Vistas
- Impact CUL-1: Impacts on Eligible Built-Environment Historical Resources from Construction and Operation of the Project
- Impact CUL-2: Impacts on Unidentified and Unevaluated Built-Environment Historical Resources Resulting from Construction and Operation of the Project
- Impact CUL-3: Impacts on Identified Archaeological Resources Resulting from the Project
- Impact CUL-4: Impacts on Unidentified Archaeological Resources That May Be Encountered in the Course of the Project
- Impact CUL-5: Impacts on Buried Human Remains
- Impact TRANS-1: Increased Average VMT Per Construction Employee versus Regional Average
- Impact AQ-5: Result in Exposure of Sensitive Receptors to Substantial Localized Criteria Pollutant Emissions
- Impact NOI-1: Generate a Substantial Temporary or Permanent Increase in Ambient Noise Levels in the Vicinity of the Project in Excess of Standards Established in the Local General Plan or Noise Ordinance, or Applicable Standards of Other Agencies
- Impact PALEO-2: Cause Destruction of a Unique Paleontological Resource as a Result of Tunnel Construction and Ground Improvement
- Impact TCR-1: Impacts on the Delta Tribal Cultural Landscape Tribal Cultural Resource Resulting from Construction, Operations, and Maintenance of the Project Alternatives
- Impact TCR-2: Impacts on Individual Tribal Cultural Resources Resulting from Construction, Operations, and Maintenance of the Project Alternatives

After implementation of feasible CEQA mitigation measures, the Project will result in the sixteen significant and unavoidable environmental impacts listed above. While DWR has concluded that these sixteen significant and unavoidable environmental impacts do not constitute direct impacts on public trust resources and values, DWR has nevertheless considered the potential for these impacts to affect public trust resources and values. DWR recognizes that the significant and unavoidable impacts of the Project may have indirect effects on public trust values. Ultimately, however, these significant impacts are tradeoffs that must be considered in the context of the public interests advanced by the Project.[29]

The mitigation measures set forth in the EIR will reduce the above-listed significant and unavoidable impacts of the Project to the extent feasible, taking into account economic, environmental, legal, social, and technological factors. However, no feasible mitigation measures or alternatives have been identified that avoid or substantially lessen these environmental impacts. DWR has also carefully considered each of these significant and unavoidable impacts of the Project and their potential to affect public trust resources. As discussed further below, these impacts do not render the Project inconsistent with the public trust doctrine.

C. The Delta Conveyance Project is in the Public Interest Despite the Occurrence of the Above Significant Unavoidable Effects

1. The Delta Conveyance Project Strengthens California's Ability to Protect Water Resources

On April 29, 2019, Governor Newsom signed Executive Order N-10-19 directing the California Natural Resources Agency, California Environmental Protection Agency, and California Department of Food and Agriculture to develop a comprehensive strategy to build a climate-resilient water system and ensure healthy waterways through the twenty-first century. After a public input period, Governor Newsom released the *California Water Resilience Portfolio* on July 28, 2020. The *California Water Resilience Portfolio* identifies a suite of complementary actions to ensure safe and resilient water supplies, flood protection and healthy waterways for the state's communities, economy, and environment. One of the projects identified in the portfolio is new diversion and conveyance facilities in the Delta to safeguard the SWP.

Factors such as the continuing subsidence of lands, risk of seismic activity and levee failures within the Delta, sea level rise, precipitation change, warmer temperatures, and wider variations in hydrologic conditions associated with climate change threaten the reliability of the current SWP water conveyance system. Additionally, pumping restrictions applied by regulatory agencies to address water quality and aquatic species concerns at the south Delta diversion continue to prevent the SWP from reliably capturing water when it is available, especially from large storm events.

Protecting the reliability of SWP water deliveries is critically important. Approximately 27 million Californians receive clean, affordable water that flows through the SWP infrastructure in the Delta. Water supplied by the SWP has benefits for the entire state and has helped California become the fifth largest economy in the world. Planning a future for California while not protecting the SWP from future changes would put California's water supply and economy at risk.

[29] See, e.g., *World Bus., supra,* 24 Cal.App.5th at p. 509 [upholding State Lands Commission's consideration of its public trust obligations in approving lease extensions for a nuclear power plant because the record showed that the Commission "balance[ed] the public trust rights to navigation, fisheries, and environmental protection against the public need for efficient electrical production"].

The Project is part of the state's strategy in adapting the SWP water supply to climate change. It protects against future water supply losses caused by reasonably foreseeable consequences of climate change and extreme weather events, sea level rise, and seismic risks. It also helps ensure that the SWP can capture, move, and store water to capitalize on large, but infrequent, storm events.

2. Water Resources Will Be Put to Beneficial Use to the Fullest Extent of Which They Are Capable While Protecting Public Trust Values to the Extent Feasible

The guiding principle of California's water law and policy is contained in Article X, Section 2, of the California Constitution. This section requires that all uses of the state's water be both reasonable and beneficial. It places a significant limitation on water rights by prohibiting the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water.[30] Additionally, a hallmark of the common law public trust doctrine is that projects impacting navigable waterways must have a connection to water-related activities that provide benefits to the public statewide, and not sacrifice public benefit for private or purely local advantage.[31] By implementing measures for increased reliability of water delivery, along with associated environmental commitments, compensatory mitigation, and mitigation measures set forth in the EIR, the Project will meet the state's responsibilities under the common law public trust doctrine and Article X, Section 2, of the California Constitution that water resources be put to beneficial use to the fullest extent of which they are capable while protecting public trust values to the extent feasible.

3. The Delta Conveyance Project Furthers State Policies Set Forth in the Delta Reform Act of 2009

Approval of the proposed new points of diversion would serve the public interest by furthering state policies set forth in the Delta Reform Act of 2009. The Delta Reform Act identifies "the two coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem."[32] As the Legislature explicitly recognized, "the Sacramento-San Joaquin Delta … serves Californians concurrently as both the hub of the California water system and the most valuable estuary and wetland ecosystem on the west coast of North and South America."[33] "The economies of major regions of the state depend on the ability to use water within the Delta watershed or to import water from the Delta watershed. More than two-thirds of the residents of the state and more than two million acres of highly productive farmland receive water exported from the Delta watershed."[34] The Project should make SWP water deliveries more dependable, thus providing a more stable business environment for the economies of those areas, including major industries such as high technology, agriculture, manufacturing, and service sectors.

D. Conclusion

The Project is grounded in concepts of efficiency and public benefit and uses best available science for design and implementation. As mitigated, the Project will not result in significant impacts to navigation, fish and aquatic resources, terrestrial biological resources, water-related recreation,

[30] Cal. Const., art. X, § 2; Cal. Wat. Code, § 1240.
[31] *National Audubon*, *supra*, 33 Cal.3d at pp. 434-441; *The Public Trust Doctrine*, State Lands Commission, page 9, available at http://archives.slc.ca.gov/Meeting_Summaries/2001_Documents/09-17-01/Items/091701R88.pdf.
[32] Cal. Pub. Resources Code, § 29702, subd. (a).
[33] Cal. Wat. Code, § 85002.
[34] *Id.*, § 85004, subd. (a).

water quality, or other public trust resources and values. However, the Project will result in the above-listed significant and unavoidable environmental impacts.

DWR has taken public trust resources and values into account in considering the merits, and impacts, of the Project. Notwithstanding the Project's significant and unavoidable environmental impacts, the Project is in the public's and State's best interests due to its many public benefits as discussed above and further elaborated in the EIR, CEQA Findings of Fact, and Statement of Overriding Considerations. The Project reflects a proper balancing of public trust values with the public interests that will be served by the Project. In approving the Project, DWR has imposed environmental commitments, best management practices, compensatory mitigation, and mitigation measures identified in the EIR that will protect, to the extent feasible consistent with the public interest,[35] public trust resources and values including, but not limited to, the public rights to navigation, fish and aquatic resources, terrestrial biological resources, water-related recreation, and water quality. Therefore, as demonstrated herein and by supporting evidence in the project files, the Project is consistent with the public trust doctrine.

Furthermore, rights to use water are subject to the Board's obligation under the public trust doctrine as trustee of certain resources for Californians. The Board is charged with the comprehensive planning and allocation of water resources in California.[36] Any change in purpose, place of use, or point of diversion requires approval by the Board.

Before the Board issues a permit, it must take into account all prior rights and the availability of water in the basin. The Board considers, too, the flows needed to preserve in-stream uses such as recreation and fish and wildlife habitat.[37] DWR, as the permit applicant, will follow the process set forth in the Board's regulations, which includes public notice and a hearing process to address objections. The EIR prepared for the Project should provide sufficient environmental documentation to support action by the Board. A key finding the Board must make before a permit can be issued is that the applicant's use is in the public interest, which is an overriding concern in all Board decisions.

Implementation of projects that are consistent with the Bay-Delta Plan's water quality objectives generally satisfy the state's public trust obligations addressed by the Bay-Delta Plan's objectives and program of implementation.[38] The Board will have a chance to evaluate the Project's consistency with Bay-Delta Plan water quality objectives and public trust compliance after DWR submits a petition for additional points of diversion for the Project. The Project is also subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or

[35] *State Water Res. Control Bd. Cases, supra,* 136 Cal.App.4th at p. 778 [in determining whether it is "feasible" to protect public trust values, an agency "must determine whether protection of those values, or what level of protection, is 'consistent with the public interest'"].
[36] Robie, *Effective Implementation of the Public Trust Doctrine in California Water Resources Decision-Making: A View From the Bench* (2012) 45 U.C. Davis L. Rev. 1155, 1161, quoting *National Audubon*, *supra*, 33 Cal.3d at p. 449.
[37] See, e.g., Cal. Wat. Code, § 85806.
[38] *State Water Res. Control Bd. Cases*, *supra*, 136 Cal.App.4th at pp. 778-779 [rejecting that the Board, in a water rights proceeding, "was obligated under the public trust doctrine to implement more generous flow objectives" than required by the Bay-Delta Plan. In adopting the Bay-Delta Plan, "[i]t was for the Board in its discretion and judgment to balance all of the[] competing interests in adopting water quality objectives and formulating a program of implementation to achieve those objectives."].

unreasonable method of diversion of water.[39] Should the Board modify the existing water quality objectives in the future in consideration of its public trust obligations or otherwise, the Project would be required to operate consistent with all applicable water quality objectives.

[39] *Stanford Vina Ranch Irrigation Co. v. State* (2020) 50 Cal.App.5th 976, 1005, fn. 9 ["[T]he public trust doctrine exists 'alongside the rule of reasonableness.' [Citation.] [The Board may rely on] [e]ach doctrine independently [to] limit[] the private use of water in this state."]; *Env't L. Found., supra,* 26 Cal.App.5th at p. 862 ["the Board's authority to protect the public trust is independent of and not bounded by the limitations on the Board's authority to oversee the permit and license system"]; *United States v. State Water Res. Control Bd*. (1986) 182 Cal.App.3d 82, 150, citing *National Audubon*, *supra*, 33 Cal.3d at p. 447; see also *Santa Clarita Water Co. v. Lyons* (1984) 161 Cal.App.3d 450, 462 [The "Board has exclusive control … over appropriation of water"]; see also State Water Board Water Right Revised Decision 1641 (2000), p. 148 ["The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses."].

Exhibit C
Final EIR Modifications

DWR made minor edits throughout Volume 1 of the Final EIR, such as modifications to punctuation and correction of misspellings and typos. In addition, DWR made minor formatting changes throughout Volume 1 of the Final EIR, such as modification to headings, corrections to page numbers, and corrections of formatting issues found in graphs, charts, and tables. Minor edits or formatting changes to the Draft EIR reflected in Volume 1 of the Final EIR do not result in any new significant environmental impacts or a substantial increase in the severity of an environmental impact that was previously analyzed in the Draft EIR.

In addition to grammar and formatting changes, new information was added to the Final EIR to clarify, amplify (i.e., expands in stating or describing, as by details or illustrations; clarifies by expanding), or makes insignificant modifications to discussion and analysis in the Draft EIR. Key modifications included in the Volume 1 of the Final EIR are identified in the table below with a summary regarding why the modifications do not result in the disclosure of a new significant impact, result in an increase in the severity or magnitude of an impact, or do not result in the need for additional required mitigation to which DWR is unwilling to commit. The Final EIR provides further information regarding modifications that occurred between the Draft EIR and the Final EIR. This information can be found in Final EIR, Volume 2, Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, which explains CEQA recirculation requirements and why the information and modifications contained in the Final EIR do not meet recirculation requirements either individually or collectively; Final EIR, Volume 2, Common Response 3, Alternatives Development and Description, which also describes some of the substantive project description refinements included in the table below and why they do not trigger the need for recirculating the Draft EIR; Final EIR, Volume 2, Common Response 11, Terrestrial Biological Resources and Compensatory Mitigation Plan, which describes refinements to the Compensatory Mitigation Plan; and Final EIR, Volume 2, Common Response 15, Air Quality and Greenhouse Gases, which describes refinements to air quality modeling and assumptions. Individual responses to comments in Volume 2, Chapter 4, Response to Comments Tables, also address refinements made to the Draft EIR in response to those individual comments where applicable. The summary table below cites relevant sections of Volume 1 of the Final EIR where appropriate.

Modification	Modification Consideration
Clarifications to Table 1-1, Summary of Potential Agencies and Review, Approval, or Other Responsibilities, in Addition to Those under CEQA in Final EIR, Volume 1, Chapter 1, *Introduction*.	The clarifying text added to Table 1-1 is about different agencies and their potential roles and responsibilities. The table was not used in the impact analysis. Therefore, the added information merely amplifies discussion in the Draft EIR and does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Clarifications to use of sedimentation basins and drying lagoons for all alternatives during operations in Final EIR, Volume 1, Chapter 3, *Description of the Proposed Project and Alternatives*, Section 3.4.1.2, *Sedimentation Basins and Drying Lagoons*.	The inclusion of the information regarding the sedimentation basins and drying lagoons further clarifies how the sedimentation basins and drying lagoons would operate and the duration in which operation would occur. These clarifications complement and amplify the information previously included in Draft EIR Chapter 3, *Description of the Proposed Project and Alternatives*, and evaluated throughout the EIR and do not materially change the description of the sedimentation basins and drying lagoons. The added information does not result in a new or more severe impact requiring additional analysis, change impact conclusions presented in the Draft EIR, or require additional mitigation measures to which DWR is unwilling to commit. Therefore, the new information does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Inclusion of undergrounding of 1.9 miles of SCADA lines between Freeport and north of Intake A across from Clarksburg consistent with description in Final EIR, Volume 1, Chapter 3, *Description of the Proposed Project and Alternatives*, Section 3.4.11, *SCADA Facilities*, clarifying that some of the SCADA lines would be undergrounded along existing roads and project access routes (as shown in Figure 3-14).	The Draft EIR stated that wherever possible, underground SCADA routes would be located along existing roads and project access routes. The Draft EIR evaluated the type and magnitude of impacts associated with installing SCADA lines underground, as well overhead. As described in Final EIR, Volume 2, Common Response 3, *Alternatives Development and Description*, the alignment between Freeport and north of Intake A across from Clarksburg was included in the study areas in the Draft EIR and undergrounding the alignment would result in highly localized, temporary, and minor soil disturbances and would require the use of similar construction equipment and construction trips as already included in the EIR evaluation for all resources. The inclusion of this information in the Final EIR complements the description in the Draft EIR that SCADA lines would be undergrounded where appropriate . The new information does not represent new or more severe impacts requiring additional analysis, change impact conclusions presented in the Draft EIR, or require additional mitigation measures to which DWR is unwilling to commit. Therefore, the new information does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Clarification of the use of non-specular material for aboveground power lines in Final EIR, Volume 1, Chapter 3, *Description of the Proposed Project and Alternatives*, Section 3.4.10, *Electrical Facilities*.	The inclusion of the information regarding non-specular material further clarifies the type of materials used for above power lines. Non-specular material is material that reflects light diffusely and evenly or scatters light. The inclusion of the use of this material complements the information previously included in Draft EIR Chapter 3, *Description of the Proposed Project and Alternatives*, and evaluated throughout the EIR and do not materially change the description of the aboveground power lines. The added information does not

Modification	Modification Consideration
	represent new or more severe impacts requiring additional analysis, change impact conclusions presented in the Draft EIR, or require additional mitigation measures to which DWR is unwilling to commit. Therefore, the information does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Refinements to location and acreage of temporary uses within the overall footprint at the Southern Complex where the Southern Complex is discussed in Final EIR, Volume 1, Chapter 3, *Description of the Proposed Project and Alternatives*, for alternatives (except Alternative 5).	Chapter 3, *Description of the Proposed Project and Alternatives,* was updated to more accurately reflect the types of activities that would occur within the construction area. As an example, the area required for reusable tunnel material (RTM) storage decreased between the Draft and Final EIR based on new estimates provided by the project engineers. However, these changes would not affect the land area required to construct and operate the project or the resulting environmental impacts that may result from land conversion. In addition, small refinements to the project's footprint would result in minor differences in total acreages reported in the Draft and Final EIR. These small refinements would not affect the magnitude or significance of environmental impacts reported in the Draft EIR. The added information does not result in a new or more severe impact requiring additional analysis, change impact conclusions presented in the Draft EIR, or require additional mitigation measures to which DWR is unwilling to commit. Therefore, the information does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Reconfiguring of Bethany Reservoir Pumping Plant and Surge Basin facilities primarily within the Bethany Complex footprint for Alternative 5 to allow approximately 35 acres to remain undisturbed within the footprint of these facilities, as described in Final EIR, Volume 1, Chapter 3, *Description of the Proposed Project and Alternatives*, Section 3.14.1, *Bethany Complex*, and Final EIR, Volume 2, Common Response 3, *Alternatives Development and Description*.	As identified in Chapter 3, *Description of the Proposed Project and Alternatives,* and further described in Common Response 3, *Alternatives Development and Description*, the reconfiguration of the Bethany Complex in the Final EIR would not create new surface impacts relative to the Draft EIR, require additional mitigation measures, or result in a change to any of the evaluations or impact conclusions contained in the Draft EIR related to any resource analyzed in the EIR. Furthermore, the operation of the facilities under the reconfigured Bethany Complex in the Final EIR would be the same as described in the Draft EIR and there would be no changes to any operation-related impacts. Specifically, the two driveways located outside the original footprint evaluated in the Draft EIR of the Bethany Complex would not result in impacts greater or of a different type than disclosed in the Draft EIR, given the minimal area disturbed by the two driveways, and the change in disturbance type at the Bethany Complex, from temporary surface impacts in the Draft EIR to permanent surface impacts in the Final EIR, would not change the severity or magnitude of the impacts already disclosed in the resource chapters of the EIR (i.e., Chapters 7 through 32). Therefore, the reconfiguration does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.

Modification	Modification Consideration
Inclusion of broader discussion and clarifications of access road and rehabilitation in Final EIR, Volume 1, Chapter 3, *Description of the Proposed Project and Alternatives*, Section 3.4.7, *Access Roads*.	The inclusion of the access road information further clarifies the location and timing of road rehabilitation. These clarifications complement the descriptions of road rehabilitation previously included in Draft EIR Chapter 3, *Description of the Proposed Project and Alternatives*, and evaluated throughout the EIR and do not materially change the description of the road rehabilitation or the analyses. The added information does not represent new or more severe impacts requiring additional analysis, change impact conclusions presented in the Draft EIR, or require additional mitigation measures to which DWR is unwilling to commit. Therefore, the information does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Inclusion of left-turn merge lane along 1 mile of Twin Cities Road 44 feet wide with three 12-foot-wide paved lanes in Final EIR, Volume 1, Appendix 3D, *Intakes, Roads, and Shafts Summary Tables*	The addition of the left-turn merge lane would not cause additional or more severe traffic impacts because it would improve, rather than worsen, traffic flow on Twin Cities Road. It would allow through traffic to pass without waiting for vehicles turning left to clear and not affect vehicle miles traveled (VMT) or conflict with a program, plan, ordinance, or policy addressing the circulation system because it is a roadway improvement that would not increase VMT beyond that already analyzed in the Draft EIR for construction and operation. Pursuant to required Mitigation Measure TRANS-1, first responders would pass through the area during construction, and, after construction, first responders would be able to use the left-turn merge lane. Other environmental resources would not be affected by the construction of the left-turn merge lane beyond the type and severity of impacts evaluated and disclosed in the Draft EIR because the left-turn merge lane would primarily be located within the boundaries of the Twin Cities Road road-widening improvements proposed under the project alternatives along existing road section(s). A highly limited and minimal additional area of disturbance (i.e., 1.5 acres) in a disturbed area located primarily within the existing road right-of-way would occur. Any known or unknown environmental resources that could occur in this strip of disturbed land have been considered in Chapters 7 through 32 of the EIR because this area is within the study area included for environmental resources. Mitigation measures identified in the EIR related to permanent disturbances would be implemented and the permanent disturbance of this additional limited area of 1.5 acres would not substantially increase the severity of impacts analyzed in the Draft EIR. Therefore, this highly limited and minimal additional area of disturbance would not constitute a substantial increase in severity of impacts disclosed in the Draft EIR. The construction of the left-turn merge lane would take place concurrently with other construction activities associated with the project alternatives at Twin Cities Road and would not result in an increase in air quality emissions beyond what was already analyzed

Modification	Modification Consideration
	in the Draft EIR because the same type and duration of equipment use would occur. The added information regarding the left-turn merge lane does not result in a new or more severe impact requiring additional analysis, change impact conclusions presented in the Draft EIR, or require additional mitigation measures to which DWR is unwilling to commit. Therefore, the addition of the left-turn merge lane does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Some refinements were made to the project description in Final EIR, Volume 1, Chapter 3, *Description of the Proposed Project and Alternatives*, to clarify operations in Section 3.16.3, *Integration of North Delta Intakes with South Delta Facilities*.	The operations description was revised to further clarify that DWR would divert excess flows in winter and spring and is not proposing to change upstream reservoir operations. Final EIR, Volume 2, Common Response 1, *CEQA Process, General Approach to Analysis, and Other Environmental Review Issues*, describes the scope of the analysis contained in the Final EIR, including areas upstream of the north Delta intakes. Final EIR, Volume 2, Common Response 3, *Alternatives Development and Description*, also explicitly responds to the concerns about upstream operations. Final EIR, Volume 2, Common Response 3 also responds to comments requesting analysis under Temporary Urgency Change Orders. The operation of the project gives the state the opportunity to capture high flows during periods of excess flows, up to what is permitted under the existing DWR water rights. Diversions at the proposed north Delta intakes would mostly occur in the winter and spring, when the conditions described above are most likely to occur. Because the project would operate this way (i.e., capture high flows on top of what can be diverted in the south Delta), DWR does not anticipate use of the proposed north Delta diversion during dry conditions where the south Delta would not be operating at capacity, such as times when a Temporary Urgency Change Order is in place. These clarifications in Final EIR, Volume 1, Chapter 3, *Description of the Proposed Project and Alternatives*, and further described in Final EIR, Volume 2, Common Response 3 complement the descriptions of operations previously included in Draft EIR Chapter 3; operations modeled using CalSim 3; and operations evaluated throughout the EIR. The added information regarding operations does not result in a new or more severe impact requiring additional analysis, change impact conclusions presented in the Draft EIR, or require additional mitigation measures to which DWR is unwilling to commit. Therefore, the information does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Inclusion of figures based on DSM2 modeling results in Final EIR, Volume 1, Chapter 5, *Surface Water*, regarding reverse flows in the Sacramento River near Freeport.	The inclusion of these graphs is to graphically depict DSM2 model results provided in Final EIR, Volume 1, Appendix 5A, Modeling Technical Appendix, Section C, *One Dimensional Delta Hydrodynamics and Water Quality Modeling Results*, Attachment 1, *DSM2 Model Results for Existing Conditions and Alternatives at 2020*. This supports the information that was previously included in the Draft EIR regarding reverse flows in the Sacramento River

Modification	Modification Consideration
	near Freeport and complements the modeled data included in Draft EIR and Final EIR. Therefore, the new figures merely clarify/amplify the discussion in the Draft EIR and does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Refinements to Final EIR, Volume 1, Chapter 8, *Groundwater*, Impact GW-4 regarding the discussion of operation groundwater modeling results related to groundwater storage to clarify the meaning of the modeling results; inclusion of electrical conductivity in Mitigation Measure GW-1.	Refinements were made to Mitigation Measure GW-1, which now includes a provision to also monitor for changes in electrical conductivity (EC) at the same wells that would be used to monitor for changes in groundwater elevations. The EC monitoring would occur over the same period as for monitoring groundwater elevations. The addition of EC monitoring to Mitigation Measure GW-1 was not made because of a new groundwater significance finding between the Draft and Final EIR, as explained in Final EIR, Volume 2, Common Response 10, *Surface Water Quality and Groundwater Resources*, but rather to support the less-than-significant impact determination regarding groundwater quality. Changes to mitigation measures that do not increase the severity of the environmental impacts disclosed in the draft EIR do not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5. (*Yerba Buena Neighborhood Consortium, LLC v. Regents of Univ. of California* (2023) 95 Cal. App. 5th 779, 808.)
Clarifications to Impact GW-1, Impact GW-2, and Impact GW-3 in Final EIR, Volume 1, Chapter 8, *Groundwater*, regarding use of Mitigation Measure GW-1.	The wording of Impacts GW-1, GW-2, and GW-3 in EIR Chapter 8, *Groundwater*, was revised to make it clearer that the impacts on groundwater resources described in the Draft EIR are less than significant before the implementation of the monitoring and response measures described in Mitigation Measure GW-1. Therefore, the new information merely clarifies/amplifies the discussion in the Draft EIR and does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Clarification of methodology in Final EIR, Volume 1, Chapter 9, *Water Quality.*	Clarifying information was included in Section 9.3.1, *Methods for Analysis*, of Chapter 9, *Water Quality*, to clarify the source, organization, aggregation of water quality data used in the impact analyses. The methodology for determining impacts was not modified and impact analyses and determinations were not modified as a result of the clarification. As described in Final EIR, Volume 2, Common Response 10, *Surface Water Quality and Groundwater Resources*, the historical, reconstructed water year types on the California Data Exchange Center website were used to aggregate the modeling results because these are publicly available and widely referenced in research and analysis related to the Delta. The presentation of average constituent levels by water year type is informational and the impact conclusions are based on all modeled changes, particularly those represented in the exceedance plots containing modeling output for the entire 93-year simulation period, as well as modeled changes in frequency of exceedance of water quality objectives. Therefore,

Modification	Modification Consideration
	the new information merely clarifies/amplifies the discussion in the Draft EIR and does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Inclusion of Mitigation Measure WQ-4 in Final EIR, Volume 1, Chapter 9, *Water Quality*, and Appendix 9M, *Contra Costa Water District Interconnection Facility Mitigation Measure*, regarding the Contra Costa Water District Interconnection Facility, to further reduce the less-than-significant impacts on chloride discussed in Impact WQ-4.	Mitigation Measure WQ-4: *Contra Costa Water District Interconnection Facility* has been included in the Final EIR to further reduce less-than-significant impacts on chloride previously disclosed under Impact WQ-4: *Effects on Chloride Resulting from Facility Operations and Maintenance* in Chapter 9, *Water Quality*. Changes to, or addition of, mitigation measures that do not increase the severity of the environmental impacts disclosed in the Draft EIR do not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5. (*Yerba Buena Neighborhood Consortium, LLC v. Regents of Univ. of California* (2023) 95 Cal. App. 5th 779, 808.) Appendix 9M, *Contract Costa Water District Interconnection Facility Mitigation Measure*, was included in the Final EIR to provide an evaluation of the environmental impacts of constructing and operating the interconnection facility. All environmental resources are analyzed in Appendix 9M. Impacts on most resources are determined to be less than significant or less than significant with mitigation incorporated. However, project impacts identified as significant and unavoidable in the Draft EIR (e.g., agricultural resources, traffic, cultural resources, Tribal Cultural Resources) would remain significant and unavoidable with implementation of Mitigation Measure WQ-4 as disclosed in Appendix 9M. Although significant and unavoidable impacts would occur, there would not be a substantial increase in the severity of significance given the location of Mitigation Measure WQ-4, the limited duration of construction, and the relatively small area of disturbance during construction. The evaluation of the new mitigation measure concluded that implementing the measure would not result in any new significant impacts or substantially increase the severity of impacts not already disclosed in the Draft EIR, nor would it require additional mitigation measures that DWR is unwilling to implement. Therefore, the new mitigation measure does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Additional clarifications regarding construction methods and geotechnical investigations in Final EIR, Volume 1, Chapter 10, *Geology and Seismicity*, Section 10.3.1.1, *Process and Methods of Review for Geology and Seismicity*, to provide details on Delta Conveyance Design and Construction Authority	Information was added to Final EIR, Volume 1, Chapter 10, *Geology and Seismicity*, Section 10.3.1.1, *Process and Methods of Review for Geology and Seismicity,* to clarify the types of information used in the analysis, how that information was used, and how new and future data would be used in the design process. As described in the section, available geological and geotechnical information was reviewed and considered in the EPR screening analyses to understand subsurface geology and groundwater conditions related to preliminary

Modification	Modification Consideration
(DCA) activities and design criteria.	design criteria and the need for specific construction methods. Additional information gained during geotechnical investigations that occurred during preparation of the DCA Engineering Project Reports (EPRs) and EIR further validated the geotechnical assumptions and construction methods that were used for the conceptual designs of each facility in the EPRs. Additional geological and geotechnical investigations would be conducted during the design phase to further develop design criteria and provide geotechnical design parameters for proposed facilities. These clarifications regarding how DCA will conduct geotechnical investigations and use information gained to inform activities and design criteria as well as construction methods complement the descriptions of the construction methods provided in Final EIR, Volume 1, Chapter 3, *Description of the Proposed Project and Alternatives*, and evaluated throughout the EIR and do not materially change the description of the construction methods or the analyses based on the construction methods. Furthermore, this information is not used in the impact analysis in Final EIR, Volume 1, Chapter 10 or elsewhere. Therefore, the new information merely clarifies/amplifies the discussion in the Draft EIR and does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Inclusion of juvenile Chinook salmon screen passage time analysis at 19°C in Final EIR, Volume 1, Chapter 12, *Fish and Aquatic Resources*, Impact AQUA-2, which further supports the impact determination of less than significant with mitigation incorporated.	The inclusion of this new information in the discussion of Impact AQUA-2 augments the original analysis in the Draft EIR, which was focused on screen passage at 12°C. The new information complements the analysis previously performed on screen passage and further supports the previous impact determination of less than significant with mitigation incorporated. CMP-25: *Tidal Habitat Restoration to Mitigate North Delta Hydrodynamic Effects on Chinook Salmon Juveniles* and CMP-26: *Channel Margin Habitat Restoration for Operations Impacts on Chinook Salmon Juveniles*, as described in Attachment 3F.1, *Compensatory Mitigation Design Parameters,* are still required and no changes to the mitigation were made because of this new information. The new information merely confirms previous conclusions, and thus does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5. (See *San Francisco Baykeeper v. California State Lands Commission* (2015) 242 Cal.App.4th 202, 224-225 [new modeling confirming earlier conclusion about effects of mining on Bay environment did not trigger recirculation]; *Beverly Hills Unified School Dist. v. Los Angeles County Metropolitan Transportation Commission* (2015) 241 Cal.App.4th 627, 660-666 [Final EIR containing substantial amounts of new information, including numerous new seismic studies did not trigger recirculation].)

Modification	Modification Consideration
Clarifications and additions of factors explaining patterns in north Delta exports and south Delta exports; clarification of footnotes in summary tables of results; and clarification of 5% significance threshold value used for impact analyses in Final EIR, Volume 1, Chapter 12, Fish and Aquatic Resources.	These clarifications further explain or add to the information regarding patterns in north Delta exports, tables of results, or the use of 5% significance threshold value. They complement the information that was previously provided in the Draft EIR and do not modify the methodology(ies) used for determining impacts or modify impact determinations. Therefore, the new information merely clarifies/amplifies the discussion in the Draft EIR and does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Inclusion of Impact AQUA-20 in Final EIR, Volume 1, Chapter 12, *Fish and Aquatic Resources*, regarding California sea lions, which discloses a less-than-significant impact.	The purpose of the analysis contained in the EIR is to disclose and evaluate potentially significant impacts. DWR did not address California sea lions in the Draft EIR because the study area is not within the traditional breeding or nonbreeding range of the population and therefore DWR had not previously identified potential effects on California sea lions as a potentially significant impact. DWR included an analysis of potential impacts on California sea lions in Chapter 12, *Fish and Aquatic Resources,* of the Final EIR, Volume 1, because of public comment. As disclosed in Chapter 12 of the Final EIR, Volume 1, the project would not result in a population-level effect on the species because the project would not permanently impede potential movement or foraging by individuals through the study area, and the study area is not within the traditional breeding or nonbreeding range for the population. Because few, if any, individuals would be affected during construction or operation of the project, the impact under CEQA is less than significant. Recirculation is required where the Final EIR discloses a new significant environmental impact of a project that was not analyzed in the Draft EIR. New information included in a Final EIR explaining why an impact alleged by a commenter is less than significant does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Refinements to Final EIR, Volume 1, Chapter 13, *Terrestrial Biological Resources*, including: adding specificity to Mitigation Measure BIO-53 to address design specifications, monitoring, and adaptive management; clarifying that if California Department of Fish and Wildlife (CDFW) develops guidance for sandhill crane surveys and work windows DWR will use the guidance; clarifying tricolored blackbird analysis in Impact BIO-44.	As described below, the added information for habitat connectivity, sandhill cranes, and tricolored blackbird, does not represent new or more severe impacts requiring additional analysis, change impact conclusions presented in the Draft EIR, or require additional mitigation measures to which DWR is unwilling to commit. Therefore, the information does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5. Mitigation Measure BIO-53 was revised to further clarify the wildlife crossing and connectivity specialist credentials, how the specialist will contribute to the project design phase to ensure adequate wildlife crossing and connectivity element design and outcomes, more detailed wildlife connectivity enhancement measures, and operational monitoring

Modification	Modification Consideration
	and adaptive management for connectivity and crossings. These modifications provide additional detail to Mitigation Measure BIO-53 but, as described in Final EIR, Volume 2, Common Response 11, *Terrestrial Biological Resources and Compensatory Mitigation Plan*, do not result in a change to an impact determination. The change to the mitigation measure does not trigger recirculation because it does not introduce new mitigation to which DWR is unwilling to commit. Changes to, or addition of, mitigation measures that do not increase the severity of the environmental impacts disclosed in the draft EIR do not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5. (*Yerba Buena Neighborhood Consortium, LLC v. Regents of Univ. of California* (2023) 95 Cal. App. 5th 779, 808.) Clarification was added to Impact BIO-33 regarding the potential for sandhill cranes to arrive earlier than September 15 and stay later than March 15 because the construction of the project will occur for many years. DWR added text explaining that if CDFW develops guidance regarding sandhill crane surveys and work windows, DWR will adjust survey dates and dates included in mitigation measures to minimize potential impacts on sandhill cranes. Changes to, or addition of, mitigation measures that do not increase the severity of the environmental impacts disclosed in the draft EIR do not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5. (*Yerba Buena Neighborhood Consortium, LLC v. Regents of Univ. of California* (2023) 95 Cal. App. 5th 779, 808.). Impact BIO-44, Appendix 3F, *Compensatory Mitigation Plan for Special-Status Species and Aquatic Resources*, and Attachment 3F.1, *Compensatory Mitigation Design Parameters*, have been modified to recognize breeding foraging habitat loss as a potential impact on tricolored blackbird and propose mitigation to compensate for this impact. Because many non-breeding foraging and roosting habitat types also serve as breeding foraging types, this change will also protect those habitat types. The revision to Attachment 3F.1 does not result in a change in impact determination for tricolored blackbird identified in Final EIR, Volume 1, Chapter 13, *Terrestrial Biological Resources*, but adds additional mitigation to further reduce potential adverse effects on tricolored blackbird that were previously disclosed in the Draft EIR. Mitigation Measure BIO-44 has been revised to include surveys during the nonbreeding season (August 1–March 14) 1 year prior to the start of construction and then the year of construction to establish use of roosting habitat. Mitigation Measure BIO-44 includes the commitment that three surveys will be conducted within 15 days prior to nighttime construction, with one of the surveys within 5 days prior

Modification	Modification Consideration
	to the start of nighttime construction and the establishment of a 300-foot nondisturbance buffer around occupied roost sites. This revision does not result in a change in impact determination for tricolored blackbird identified in Final EIR, Volume 1, Chapter 13. Although Impact BIO-44 was updated, the additional information merely confirms previous conclusions, and thus does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5. (See *San Francisco Baykeeper v. California State Lands Commission* (2015) 242 Cal.App.4th 202, 224-225 [new modeling confirming earlier conclusion about effects of mining on Bay environment did not trigger recirculation]; *Beverly Hills Unified School Dist. v. Los Angeles County Metropolitan Transportation Commission* (2015) 241 Cal.App.4th 627, 660-666 [Final EIR containing substantial amounts of new information, including numerous new seismic studies did not trigger recirculation].) Furthermore, changes to, or addition of, mitigation measures that do not increase the severity of the environmental impacts disclosed in the draft EIR do not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5. (*Yerba Buena Neighborhood Consortium, LLC v. Regents of Univ. of California* (2023) 95 Cal. App. 5th 779, 808.)
Inclusion of monarch butterfly in Final EIR, Volume 1, Chapter 13, *Terrestrial Biological Resources*, because it is a U.S. Fish and Wildlife candidate species being considered for listing, which discloses a less-than-significant impact, and removal of western bumble bee from Chapter 13 and associated appendices because a recent California Department of Fish and Wildlife publication shows the species' known range is outside of the study area.	The purpose of the analysis contained in the EIR is to disclose and evaluate potentially significant impacts. DWR had not previously identified potential effects on monarch butterflies as a potentially significant impact because overwintering habitat, which is limited for the species, would not be affected by the project and there are no known overwintering populations within 10 miles of the study area. The Final EIR includes Impact BIO-57, which evaluates the monarch butterfly because it is a U.S. Fish and Wildlife candidate species being considered for listing and may be listed in the near future. The analysis determines impacts on monarch butterfly to be less than significant. Recirculation is required where the Final EIR discloses a new significant environmental impact of a project that was not analyzed in the draft EIR. New information included in a Final EIR explaining why an impact is less than significant does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5. The Final EIR removed western bumble bee from Impact BIO-21 because recent California Department of Fish and Wildlife publication shows the species' known range is outside of the study area. Similarly, CMP-29 was refined to restrict compensatory mitigation to mitigate for habitat for Crotch bumble bee. This revision does not trigger the need for recirculation because it does not introduce a new significant impact, cause a substantial increase in the severity of an environmental impact, or require additional mitigation measures to which DWR is unwilling to commit. Therefore, the information does not

Modification	Modification Consideration
	constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Clarifications in Final EIR, Volume 1, Chapter 16, *Recreation*, regarding location of I-5 ponds in existing conditions and clarifying details regarding I-5 ponds in Impact REC-1 and Impact REC-2.	Information was previously included regarding the I-5 ponds in Chapter 16, *Recreation*. Clarifying and additional text regarding these areas as they relate to recreation and implementation of the Compensatory Management Plan was included in Final EIR, Volume 1, Chapter 16 in the impact analysis. This revision does not trigger the need for recirculation because it does not introduce a new significant impact, cause a substantial increase in the severity of an environmental impact, or require additional mitigation measures to which DWR is unwilling to commit. Therefore, the information does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Clarifications in Final EIR, Volume 1, Chapter 14, *Land Use*, regarding locations of existing easements.	Clarification was added to Final EIR, Volume 1, Chapter 14, *Land Use*, explaining that although the land use study area overlaps with conservation easements, this overlap is not an impact on land use and therefore is not addressed in the land use chapter. The impacts on the natural communities and species habitats within the study area, including within conservation easements, are quantified and analyzed in Final EIR, Volume 1, Chapter 13, *Terrestrial Biological Resources*. Therefore, the new information merely clarifies/amplifies the discussion in the Draft EIR and does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Refinements to air quality and greenhouse gas (GHG) modeling based on engineering clarifications (e.g., off-road equipment type and horsepower, duration of marine vessel use); to use newer versions of analysis models (e.g., CalEEMod version 2022.1.1.3, eGRID2021); and to more accurately capture project description components (e.g., barges), including clarifications regarding modeling results and analysis in Final EIR, Volume 1, Chapter 23, *Air Quality and Greenhouse Gases*, and accompanying appendices.	Refinements to air quality modeling and the resulting updates are provided in Final EIR, Volume 1, Chapter 23, *Air Quality and Greenhouse Gases*, and accompanying appendices. Where appropriate, specific modeling assumptions were updated to account for the most recent engineering data and ensure alignment of the air quality analysis with the project description contained in Final EIR, Volume 1, Chapter 3, *Description of the Proposed Project and Alternatives*. Analysis modeling was also updated to use newer versions of California Emissions Estimator Model (CalEEMod) and eGRID. While both of these models were updated after the close of the public comment period for the Draft EIR, DWR elected to revise the analysis in the Final EIR to confirm that use of the newer model versions would not change any of the impact conclusions reached in the Draft EIR. Additional targeted refinements were also made to the analysis in response to specific public comments, including corrected association of equipment emission factors by horsepower, accounting of transmission and distribution losses during construction, and expansion of DWR's commitment of engine electrification. The level of transparency and documentation provided by the Draft EIR and the Final EIR is equivalent to, and in some cases exceeds, what is often provided for CEQA documents where models such as

Modification	Modification Consideration
	CalEEMod are exclusively used to quantify emissions. As demonstrated throughout Chapter 23 and the supporting appendices of the Final EIR, and further detailed in Final EIR, Volume 2, Common Response 15, *Air Quality and Greenhouse Gases*, the refinements to air quality and greenhouse gas (GHG) modeling confirm previous conclusions and impact determinations presented in the Draft EIR, and thus does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5. (See *San Francisco Baykeeper v. California State Lands Commission* (2015) 242 Cal.App.4th 202, 224-225 [new modeling confirming earlier conclusion about effects of mining on Bay environment did not trigger recirculation]; *Beverly Hills Unified School Dist. v. Los Angeles County Metropolitan Transportation Commission* (2015) 241 Cal.App.4th 627, 660-666 [Final EIR containing substantial amounts of new information, including numerous new seismic studies did not trigger recirculation].)
Inclusion of clarifying information regarding pumping energy usage in Final EIR, Volume 1, Chapter 22, *Energy*.	Revisions have been made to some of the energy use data reported in Final EIR, Volume 1, Chapter 22, *Energy*, including energy required to construct and operate the Delta Conveyance Project. The revisions reflect the most recent estimates of equipment needed to construct the Delta Conveyance Project and resulting energy consumption and updates to the energy needed to operate the project. The revised information would not result in a change to the CEQA impact conclusions reported in Chapter 22. Therefore, the new information merely clarifies/amplifies the discussion in the Draft EIR and does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.
Clarifications in mitigation measures and environmental commitments/best management practices throughout the EIR, including Final EIR, Volume 1, Appendix 3B, *Environmental Commitments and Best Management Practices*, to provide more clarity regarding the activities, location, timing, roles, or responsibilities, based on technical review.	As described in Final EIR, Volume 2, Common Response 1, *CEQA Process, General Approach to Analysis, and Other Environmental Review Issues*, DWR has refined some mitigation measures to clarify the mechanisms for and timing of implementation of environmental protections, including refinements in Appendix 3F, *Compensatory Mitigation plan for Special-Status Species and Aquatic Resources*. These refinements to mitigation measures would not cause any new significant environmental impact or substantially increase the severity of a previously disclosed environmental impact. All refinements to mitigation have been included to further enhance or improve environmental protections. Refinements made to environmental commitments were for permit consistency or to address public comments. These refinements included adding refueling specification (Environmental Commitments EC-2 and EC-3); requiring that the tops and bottoms of spoils disposal areas be rounded and slope faces contoured (Environmental Commitment EC-4a); further specifying erosion control materials (Environmental Commitment EC-4a); reinforcing state priorities for zero-emission equipment, providing further detail on diesel equipment, and limiting the age of marine vessels used for intake construction (Environmental

Modification	Modification Consideration
	Commitments EC-7, EC-8, and EC-10); removing reference to studying on-site concrete batching since this analysis was already performed and the project has been designed to maximize use of on-site batch plants (Environmental Commitment EC-13); and adding further specificity to construction BMPs for biological resources (Environmental Commitment EC-14). As with mitigation measures, all refinements have been included to further enhance or improve environmental protections and would not cause new significant environmental impacts or substantially increase the severity of a previously disclosed environmental impact. Changes to, or addition of, mitigation measures that do not increase the severity of the environmental impacts disclosed in the draft EIR do not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5. (*Yerba Buena Neighborhood Consortium, LLC v. Regents of Univ. of California* (2023) 95 Cal. App. 5th 779, 808.)
Compensatory mitigation refinements in Final EIR, Volume 1, Appendix 3F, *Compensatory Mitigation Plan for Special-Status Species and Aquatic Resources*, and throughout the EIR as appropriate; Refinements to design commitments and guidelines for special-status plants California tiger salamander, tricolored blackbird, Swainson's hawk, and the addition of design commitments for Crotch bumble bee. Additional refinements to the CMP include the inclusion of mitigation measure ratios, the 10% stay-ahead commitment to mitigation; clarifications that mitigation sites will be designed, managed, and maintained to provide habitat requirements for a diversity of targeted wildlife species; removal of tidal habitat restoration on Bouldin Island; and clarification regarding potential locations of grassland mitigation, in addition to the initial mitigation sites and other site protection instruments.	Final EIR, Volume 2, Common Response 11, *Terrestrial Biological Resources and Compensatory Mitigation Plan*, describes the revisions that have been made to the CMP and associated resource-related modifications. As discussed in Final EIR, Volume 2, Common Response 11, in the section titled *Revisions to the Compensatory Mitigation Plan*, these revisions do not result in a change to any impact conclusions or require additional mitigation measures to which DWR is unwilling to commit. For terrestrial biological resources, no changes to an CEQA impact determination or mitigation measure are necessary because the CMP revisions either add specificity to an existing measure, provide additional mitigation for a species beyond what is required to reach a determination of a less-than-significant impact, or are located within areas that have already been identified as compensatory mitigation locations, as described in the *Biological Resources* section of Final EIR, Volume 2, Common Response 11. For other resources, CMP revisions cause minimal change to a resource, do not affect a resource, or lessen the impact on a resource, as described in the *Other Resources* section of Final EIR, Volume 2, Common Response 11. The following changes to the CMP do not trigger recirculation because changes to, or addition of, mitigation measures that do not increase the severity of the environmental impacts disclosed in the draft EIR do not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5. (*Yerba Buena Neighborhood Consortium, LLC v. Regents of Univ. of California* (2023) 95 Cal. App. 5th 779, 808.) **Refinements to Design Commitments and Guidelines** Final EIR, Volume 2, Common Response 11 describes the following refinements that were

Modification	Modification Consideration
	made to the design commitments and guidelines in the CMP, Attachment 3F.1, and why they would not result in a change to any impact conclusions or require additional mitigation measures: CMP-0: *General Design Guidelines* was updated to provide more detail about DWR's commitment to compensate for habitat impacts that could occur as a result of the CMP; Additional detail was added to CMP-9 to better define suitable habitat and to clarify conditions of propagation of seed as mitigation for special-status plants; for California tiger salamander, CMP-13 was modified to require that mitigation habitat will be located adjacent or connected to occupied upland or aquatic habitat; for tricolored blackbird, CMP-22a was revised to define high and very high-quality breeding season foraging habitat and CMP-22b was modified to add compensation for impacts on breeding season foraging habitat at a ratio of 1:1, which would consist of the creation or enhancement of grassland, vernal pool complex, alkaline seasonal wetland, or suitable cultivated lands or the implementation of a site protection instrument; for Swainson's hawk, CMP-19 was modified to revise the land cover and crop types included in the very high, high, and moderate categories of foraging habitat value types. Furthermore, CMP-29 was added; it describes compensation design guidelines specific to Crotch bumble bee to further clarify how grassland mitigation will support Crotch bumble bee to compensate for potential impacts on the species and its habitat. **Additional Revisions to the CMP** As described in Final EIR, Volume 2, Common Response 11, the CMP was also updated to include the following revisions: The addition of mitigation ratios developed in consultation with CDFW and USFWS through the project permitting process; additional language to describe in more detail the sequence and timing of mitigation implementation including the 10% stay-ahead commitment for mitigation; further detail to clarify the commitment by DWR that compensation lands will be managed to provide habitat for multiple species and to clarify the conversions of existing land cover to created, enhanced, or unchanged habitat in comparison with existing land cover; the removal of tidal habitat restoration on Bouldin Island; and the potential for additional grassland mitigation to occur in construction areas identified as permanent (affected for greater than 1 year) impacts.

Modification	Modification Consideration
Clarifications regarding water transfers in Appendix 3H, *Non-Project Water Transfer Analysis for Delta Conveyance*, and additions to Final EIR, Volume 1, Chapter 9, *Water Quality*, and Chapter 12, Fish and Aquatic Resources, methods sections.	Appendix 3H, *Non-Project Water Transfer Analysis for Delta Conveyance*, was revised by adding clarifying text regarding how water transfers were considered in the EIR, which supports the statements in the EIR and responses to comments on the EIR. The additional text clarifies that the Delta Conveyance Project would not facilitate additional exports because the available capacity of the current SWP facilities to be used for transfers is not fully utilized. The explanation of carriage water in Appendix 3H was expanded to better clarify how carriage water requirements are determined as part of a water transfer. Both Final EIR, Volume 1, Chapter 9, *Water Quality*, and Final EIR, Volume 1, Chapter 12, *Fish and Aquatic Resources*, were updated to better explain how transfers through the Delta Conveyance Project facilities would not adversely affect water quality or aquatic resources or change the impact findings made for each resource topic. The added information does not result in a new or more severe impact requiring additional analysis, change impact conclusions presented in the Draft EIR, or require additional mitigation measures to which DWR is unwilling to commit. Therefore, the information does not constitute significant new information requiring recirculation under CEQA Guidelines Section 15088.5.

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EXHIBIT B
COVERSHEET

STATEMENT OF OVERRIDING CONSIDERATIONS

No. of Pages: 4

Exhibit Attachments: None

STATEMENT OF OVERRIDING CONSIDERATIONS

California Public Resources Code section 21081, subdivision (b), and State CEQA Guidelines section 15093 provide that, when a public agency decision-maker approves a project that may have potentially significant, unavoidable environmental impacts identified in an environmental impact report, the decision-making body must state in writing the reasons to support its action based on the completed EIR and/or other information in the administrative record.

Here, the Santa Clara Valley Water District (Valley Water) is considering an approval of an Amendment to the January 2021 Agreement to fund data collection and field work investigations, including ground-disturbing geotechnical work, water quality and hydrogeologic investigations, agronomic testing, the installation of monitoring equipment, construction test projects, pre-construction design work, and engineering work (collectively, "Pre-Construction Work") that will guide the ultimate design, appropriate construction methods, and monitoring programs for the Department of Water Resources' ("DWR") Delta Conveyance Project ("DCP"). The DCP entails the development of new diversion and conveyance facilities in the Sacramento-San Joaquin Delta ("Delta") to safeguard the State Water Project ("SWP"), which provides water supplies to Valley Water. Valley Water is not considering approval of the DCP at this time, nor is Valley Water committing to a future approval of the DCP by approving the Pre-Construction Work.

DWR prepared and certified an Environmental Impact Report ("EIR") (State Clearinghouse Number 2020010227) that analyzed the potential environmental impacts of the DCP, inclusive of potential impacts associated with the Pre-Construction Work. The EIR concluded that the DCP, inclusive of the Pre-Construction Work, may have significant and unavoidable impacts on the environment, and these impacts are listed below and prefaced by their identification number from the EIR:

- Impact AG-1: Convert a Substantial Amount of Prime Farmland, Unique Farmland, Farmland of Local Importance, or Farmland of Statewide Importance as a Result of Construction of Water Conveyance Facilities
- Impact AG-2: Convert a Substantial Amount of Land Subject to Williamson Act Contract or under Contract in Farmland Security Zones to a Nonagricultural Use as a Result of Construction of Water Conveyance Facilities
- Impact AES-1: Substantially Degrade the Existing Visual Character or Quality of Public Views (from Publicly Accessible Vantage Points) of the Construction Sites and Visible Permanent Facilities and Their Surroundings in Nonurbanized Areas
- Impact AES-2: Substantially Damage Scenic Resources including, but Not Limited to, Trees, Rock Outcroppings, and Historic Buildings Visible from a State Scenic Highway
- Impact AES-3: Have Substantial Significant Impacts on Scenic Vistas
- Impact CUL-1: Impacts on Built-Environment Historical Resources Resulting from Construction and Operation of the Project
- Impact CUL-2: Impacts on Unidentified and Unevaluated Built-Environment Historical Resources Resulting from Construction and Operation of the Project
- Impact CUL-3: Impacts on Identified Archaeological Resources Resulting from the Project
- Impact CUL-4: Impacts on Unidentified Archaeological Resources That May Be Encountered in the Course of the Project

- Impact CUL-5: Impacts on Buried Human Remains
- Impact TRANS-1: Increased Average VMT Per Construction Employee versus Regional Average
- Impact AQ-5: Result in Exposure of Sensitive Receptors to Substantial Localized Criteria Pollutant Emissions
- Impact NOI-1: Generate a Substantial Temporary or Permanent Increase in Ambient Noise Levels in the Vicinity of the Project in Excess of Standards Established in the Local General Plan or Noise Ordinance, or Applicable Standards of Other Agencies
- Impact PALEO-2: Cause Destruction of a Unique Paleontological Resource as a Result of Tunnel Construction and Ground Improvement
- Impact TCR-1: Impacts on the Delta Tribal Cultural Landscape Tribal Cultural Resource Resulting from Construction, Operations, and Maintenance of the Project Alternatives
- Impact TCR-2: Impacts on Individual Tribal Cultural Resources Resulting from Construction, Operations, and Maintenance of the Project Alternatives

In the judgment of the Board of Directors, each benefit of the Pre-Construction Work, as set forth below, outweighs—both individually and collectively—each of these potentially significant and unavoidable impacts for the reasons set forth below.

1. **The Pre-Construction Work is necessary for the safe and efficient design of the DCP**. The information collected from and generated by the Pre-Construction Work would be used to develop the DCP safely, efficiently, and in manner that minimizes impacts to the environment. For example, the information collected would be used to develop, among other things, detailed design of the DCP's structure and bridge foundations, new or modified levee cross sections, and ground improvement methodology. Moreover, information from the Pre-Construction Work would determine selection of tunnel boring machine methods, dewatering methods and quantities, below-grade construction methods (such as at the shafts and the pumping plant), need for impact pile driving, and methods to reduce ground settlement risk at all construction sites and along the tunnel alignment. The information would also be used to determine the specific depths and widths of groundwater cutoff walls to be installed at select construction sites. Additionally, soil samples obtained during soil borings would be analyzed to determine the structural capabilities of the soil to construct tunnel shaft pads and levee improvements, among other things. Soil and water quality tests would also be conducted to determine the potential for the presence of high concentrations of metals, organic materials, or hazardous materials that would require specific treatment and/or disposal methods. Thus, the Pre-Construction Work would generate information necessary to guide any construction of the DCP in a manner that would minimize its potential environmental impacts and most efficiently achieve the DCP's objectives.

2. **The DCP, which cannot be developed without the Pre-Construction Work, would restore and protect the reliability of SWP Water Deliveries South of the Delta**. The primary purpose of the SWP is to convey water to local and regional water suppliers, including Valley Water, across California that, in turn, supply end users engaged in the beneficial uses of that water. Protection of the SWP is thus important to Valley Water. The Pre-Construction Work will help ensure that the DCP, if constructed, will help protect SWP water deliveries to Valley Water by addressing seismic risks. Notably, the current SWP system relies heavily on natural channels within the Delta to convey water and is extremely vulnerable to seismic events because most land in the central Delta has

subsided well below sea level. If levees fail because of a seismic event, seawater intrusion from the western Delta could create salinity conditions that could require ceasing diversions from the SWP's current point of diversion in the south Delta. The capability of the DCP to continue operations would improve the ability of SWP Delta facilities to function after a seismic event by operating diversion facilities north of existing SWP facilities. The operations of the DCP would allow continued water supply diversions should south Delta export facilities become inoperable.

The DCP cannot proceed without the Pre-Construction Work, and the DCP would allow continued water deliveries to Valley Water and operational flexibility in the event of a catastrophic levee failure from seismic activity that could temporarily disrupt water supply or affect water quality.

3. **The DCP, which cannot be developed without the Pre-Construction Work, would restore and protect the reliability of SWP Water Deliveries South of the Delta by addressing reasonably foreseeable consequences of climate change and extreme weather events**. The DCP is part of the State of California's strategy to adapt the SWP water supply to climate change. As described in the Final EIR certified for the DCP, Volume 1, Chapter 30, *Climate Change*, projected future conditions under climate change, such as higher average temperature and more extreme variability in annual precipitation patterns, is anticipated to further diminish overall water supply and reliability of water delivery to Valley Water. Climate change is already taking a toll on California's water supplies in the form of more frequent and more severe droughts. A warmer atmosphere would modify precipitation and runoff patterns and affect extreme hydrologic events like floods and droughts. It is anticipated that droughts would increase in severity and duration, resulting in periods of critical dryness, further reducing Delta inflows during these dry periods. At the same time, associated increases in the frequency and severity of flashy storms in the cool season could increase high-flow events and flood risk in the Delta. These trends point to the need for alternate methods of water diversion and conveyance to effectively respond to changing water flow regimes under future climate change. In this context, Valley Water considers capture and conveyance in the Delta as important potential adaptations in protecting the SWP from future climatic change and mitigating system losses due to changing precipitation patterns and seasonal runoff. Having alternative points of diversion in the north Delta would increase resiliency in managing combined effects of sea level rise, including potential impacts on Delta morphology, and changes to timing and quantity of seasonal runoff. As water demand and supply challenges continue to increase, the DCP is designed to enhance resilience to climate change impacts and ensure that safe and reliable water deliveries to Valley Water continue far into the future (California Department of Water Resources 2023b).

4. **The DCP, which cannot be developed without the Pre-Construction Work, would restore and protect the reliability of State Water Project Water Deliveries South of the Delta by addressing sea level rise**. The DCP would protect Valley Water's SWP water supplies by facilitating adaption to sea level rise and potential changes in hydrologic conditions associated with climate change. As described in Final EIR, Volume 1, Appendix 6A, *Water Supply 2040 Analysis*, the DCP would improve SWP water supply reliability under current and future conditions, including extreme high sea level rise. As Valley Water relies on SWP water supply, the Pre-Construction Work, and the DCP that it would enable, would provide significant benefits to Valley Water.

5. **The Pre-Construction Work is necessary to obtain a more accurate cost estimate in relation to prudent financial planning and decision making of Valley Water's Board of Directors.** The ultimate financial costs of the DCP continue to be refined as further feasibility, planning, and design information is obtained. Until more information is known regarding the precise construction techniques, unique localized conditions that may increase or decrease construction costs, and potential schedule for any future construction, the financial cost of the DCP will continue to evolve. Valley Water wishes to further confirm the ultimate DCP costs, in order to allow for better disclosure to its rate-payers and in relation to prudent financial planning and decision making. The Pre-Construction Work is necessary to achieve those ends.

Through this Statement of Overriding Considerations, and based on the substantial evidence in the administrative record, Valley Water's Board of Director's has weighed the Pre-Construction Work's benefits against its environmental impacts and finds that the Pre-Construction Work's potentially significant and unavoidable environmental impacts are "acceptable" in light of the environmental, economic, legal, social, technological, and/or other considerations set forth herein, and that each benefit of the Pre-Construction Work outweighs, both individually and collectively, the potentially significant and unavoidable environmental impacts.

EXHIBIT C
COVERSHEET

NOTICE OF DETERMINATION

No. of Pages: 2

Exhibit Attachments: None

NOTICE OF DETERMINATION

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Santa Clara Valley Water District

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Lead Agency:
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☒ Contra Costa County Clerk
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☒ Solano County Clerk
675 Texas Street, Suite 2700
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Subject: *Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resource Code.*

Contact Person: Elise Latedjou-Durand	**Telephone No:** (408) 630-3205	**State Clearinghouse No:** 2020010227
Project Title: Delta Conveyance Project		
Project Location: Alameda, Contra Costa, Sacramento, Solano, San Joaquin, and Yolo Counties		

On December 21, 2023, California Department of Water Resources (DWR) certified the environmental impact report ("EIR") for, and approved, the Delta Conveyance Project. The Delta Conveyance Project consists of the construction, operation, and maintenance of new State Water Project ("SWP") water diversion and conveyance facilities in the Delta that would be operated in coordination with existing SWP facilities.

The Delta Conveyance Project includes the following key components and actions:

- Two intake facilities along the Sacramento River in the north Delta near the community of Hood with on-bank intake structures that would include fish screens.

- A concrete-lined tunnel, and associated vertical tunnel shafts, to convey flow from the intakes about 45 miles to the south of the Bethany Reservoir Pumping Plant and Surge Basin at a location south of the existing SWP Clifton Court Forebay.
- A Bethany Reservoir Pumping Plant to lift the water from inside the tunnel below ground into the Bethany Reservoir Aqueduct for conveyance to the Bethany Reservoir Discharge Structure and into the existing Bethany Reservoir.
- Other ancillary facilities to support construction and operation of the conveyance facilities including, but not limited to, access roads, concrete batch plants, fuel stations, and power transmission and/or distribution lines.
- Efforts to identify geotechnical, hydrogeologic, agronomic, and other field conditions that will guide appropriate construction methods and monitoring programs for final engineering design and construction data collection and field work investigations, including ground-disturbing geotechnical work, water quality and hydrogeologic investigations, agronomic testing, the installation of monitoring equipment, construction test projects, pre-construction design work, and engineering work ("Pre-Construction Work")

Santa Clara Valley Water District (Valley Water), as a responsible agency, has not approved the Delta Conveyance Project but has, however, issued a limited approval relating to funding of Pre-Construction Work for the Delta Conveyance Project.

This is to advise that Valley Water, as a Responsible Agency, has considered the Delta Conveyance Final EIR as prepared by the Lead Agency and has approved the Pre-Construction Work project on _____, 2024. Valley Water has made the following determinations regarding the above-described project:

1. The project ☒ will, ☐ will not, have a significant effect on the environment.
2. ☒ Environmental Impact Report was previously prepared by DWR for the Delta Conveyance Project, which included and analysis of the Pre-Construction, pursuant to the provisions of CEQA for the Delta Conveyance Project pursuant to the provisions of CEQA.
3. Mitigation measures ☒ were, ☐ were not made a condition of the approval of the Delta Conveyance Project, including the Pre-Construction Work, By DWR.
4. A mitigation reporting or monitoring program [☒ was ☐ was not adopted by DWR.
5. A Statement of Overriding Considerations ☒ was, ☐ was not adopted for the Pre-Construction Work
6. Findings ☒ were, ☐ were not made pursuant to CEQA Guidelines §15091 and the provisions of

CEQA for the Delta Conveyance Project

This is to certify that the above-referenced EIR and the record of proceedings relating to Valley Water above-described action is available to the General Public at the following location:
https://www.deltaconveyanceproject.com/planning-processes/california-environmental-quality-act/final-eir/final-eir-document

Rick L. Callender, Esq. Chief Executive Officer	Date: