

**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

RESOLUTION NO. 21-

**CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT,
ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM,
FINDINGS OF FACT, AND STATEMENT OF OVERRIDING CONSIDERATIONS
FOR THE ALMADEN LAKE IMPROVEMENT PROJECT**

WHEREAS, the Santa Clara Valley Water District ("Valley Water"), the lead agency, pursuant to §21067 of the California Environmental Quality Act ("CEQA"), has prepared a Final Environmental Impact Report (EIR) for the Almaden Lake Improvement Project ("Project"); and

WHEREAS, prior to approving a project for which an EIR was prepared, Valley Water as the lead agency is required to make written findings for each significant environmental effect of the Project, adopt a mitigation monitoring and reporting program, and adopt a statement of overriding considerations if needed, in accordance with CEQA Guidelines §15090, 15091, and 15093.

NOW, THEREFORE BE IT RESOLVED by the Board of Directors of Valley Water that:

1. The Board certifies the Final EIR, certifying that:
 - a. The Final EIR has been completed in compliance with CEQA and is adequate for Board consideration of the Project.
 - b. The Board of Directors has reviewed and considered the information contained in the Final EIR and the record including, but not limited to, technical reports, oral written comments provided by the public and state and local agencies; responses to said comments contained in the Final EIR; and other matters deemed material and relevant prior to making a decision on the Project.
 - c. The Final EIR reflects the independent judgement and analysis of Valley Water.
2. Changes have been incorporated into the Project which avoid, and/or substantially lessen most of the significant environmental effects identified in the Final EIR. Valley Water has responsibility for ensuring the implementation of such changes during implementation of the Project.
3. Specific economic, legal, social, technological, and other considerations make mitigation measures for certain significant environmental effects infeasible. The findings of fact contained in Exhibit 1 state the overriding considerations that support the Project described in the Final EIR.
4. The Findings of Fact and Statement of Overriding Considerations contained in Exhibit 1, attached hereto and incorporated by reference, are supported by substantial evidence in the record.
5. The Mitigation Monitoring and Reporting Program (MMRP) contained in Exhibit 2, attached hereto and incorporated by reference, is hereby adopted. Implementation of

the MMRP to avoid or substantially lessen significant environmental effects is required as a condition of approval of the Project.

6. The documents and materials which constitute the record of proceedings upon which this decision is based are available from the Clerk of the Board of Valley Water, 5750 Almaden Expressway, San Jose, CA 95118-3614.
7. The Chief Executive Officer is hereby authorized and directed, on behalf of Valley Water's Board of Directors, to execute any such documents and to perform any such acts as may be deemed necessary or appropriate to accomplish the intent of this resolution.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on May 11, 2021:

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

TONY ESTREMER
Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

Clerk, Board of Directors

EXHIBIT 1 COVERSHEET

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION FOR THE ALMADEN LAKE IMPROVEMENT PROJECT

No. of Pages: 52

ALMADEN LAKE IMPROVEMENT PROJECT FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS

I. INTRODUCTION

This document presents Findings of Fact (Findings) by the Board of Directors (Board) of the Santa Clara Valley Water District (Valley Water) regarding the Final Environmental Impact Report (Final EIR or FEIR) for the Almaden Lake Improvement Project (Project), for which Valley Water is acting as CEQA lead agency. The Findings presented herein were prepared in compliance with the California Environmental Quality Act (CEQA) and the State's CEQA Guidelines. Additional substantial evidence supporting all findings made herein is contained in the EIR and/or the record of proceedings.

The Findings are organized as follows:

- Section I provides an introduction and describes the need for these Findings.
- Section II provides the background and context for the Project.
- Section III includes a brief description of the Project, including the project objectives, and a description of the proposed project components and construction techniques.
- Section IV describes the avoidance and minimization measures that are built into the design of the Project and are committed to as part of Project implementation. Measures include those taken from the Valley Water Best Management Practices Handbook (BMP Handbook) and from the Santa Clara Valley Habitat Plan (SCVHP).
- Section V describes the CEQA scoping and Draft EIR review process, and includes a summary of comments received on the Draft EIR.
- Section VI describes the Final EIR and the Final EIR Certification process.
- Section VII provides a summary of the administrative record, upon which the Board based its Findings.
- Section VIII presents Findings regarding: environmental effects found to be less than significant (VIII.a); environmental effects that can be mitigated to less than significant (VIII.b); significant environmental effects that cannot be mitigated to less than significant (VIII.c), and; the Project's contributions to cumulative impacts (VIII.d).
- Section IX presents Findings regarding: alternatives analyzed in the EIR (IX.a); findings regarding the alternatives (IX.b); alternatives considered but rejected from further analysis (IX.c), and; comments on the Draft EIR and further consideration of an additional alternative (IX.d).
- Section X presents Findings that no new information has been presented during the CEQA review process that identifies any new or substantially increased significant impacts associated with the Project or mitigation measures, or new Project alternatives

or mitigation measures that are considerably different from those previously analyzed that would clearly lessen the Project's significant impacts.

- Section XI describes and adopts the Mitigation Monitoring and Reporting Program (MMRP) for the Project.
- Section XII presents a Statement of Overriding Considerations for impacts that cannot be mitigated to a less than significant level.
- Section XIII contains references cited in these Findings.

The following paragraphs summarize CEQA's requirements for Findings and a Statement of Overriding Considerations. If a proposed project would have significant adverse effects on the environment, CEQA requires the lead agency to prepare findings describing how those effects would be reduced or avoided. Under Public Resources Code Section 21081[a], several findings are possible.

- (1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
- (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

Public Resources Code Sec. 21061.1 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." CEQA Guidelines Sec.15364 adds another factor: "legal" considerations. (See also *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565.) The concept of "feasibility" also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417.) "[F]easibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors." (*Id.*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.) Alternatives and mitigation measures may also be determined to be infeasible if they do not "fully satisfy the objectives associated with a proposed project" or are "undesirable from a policy standpoint." (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957.)

For a project that has significant impacts that cannot feasibly be avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a Statement of Overriding Considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines Sec.15093, 15043(b); see also Public Resources Code Sec. 21081(b).)

II. BACKGROUND

The Almaden Lake Improvement Project (Project) is in the City of San José's (City) Almaden Lake Park (Park). Almaden Lake, located entirely within Almaden Lake Park, formed when a quarry levee breached. The loss of the integrity of the Alamos Creek channel and commingling of creek water with lake water has created adverse conditions for the anadromous fish population. Further, mercury-laden sediment from historic upstream mining activities continues to be transported downstream in Alamos Creek and is deposited in Almaden Lake. Seasonal lake conditions contribute to the conversion of elemental mercury to methylmercury as well as other negative water quality conditions. The Project would address these issues by reestablishing the Alamos Creek channel, separating the creek from Almaden Lake (lake) to improve anadromous fish access to spawning and rearing habitat within the upper portions of the Guadalupe River Watershed, and reducing methylmercury levels in the lake.

Separating Alamos Creek from Almaden Lake would restore Alamos Creek's upstream and downstream connectivity within the Guadalupe River Watershed, restoring habitat linkages for native fish and anadromous fish species, and would create a geomorphically stable creek channel that would improve sediment transport and restore natural creek functions. Therefore, the Project would help to restore and maintain healthy fish populations by improving fish habitat and passage in the creek channel.

Leveling the irregular lake bottom and capping existing elemental mercury in the lake bed would assist in addressing Almaden Lake's mercury-related water quality issues. Re-contouring the lake bottom, continuing effective control measures (e.g., operation of SolarBee solar powered circulators) to manage future methylmercury production and bioaccumulation in fish, and utilizing a water source that minimizes the reintroduction of mercury to the lake would promote the ability of Valley Water to meet the water quality objectives laid out by the San Francisco Bay Regional Water Quality Control Board (RWQCB) in the 2008 Basin Plan Amendment (RWQCB, 2008).

III. PROJECT DESCRIPTION

The Project purpose is to restore Alamos Creek's function within the footprint of Almaden Lake Park in order to improve physical habitat for steelhead and other anadromous fish, while improving water quality within the lake footprint, and minimizing impacts to existing recreational features within the Park.

This purpose would be accomplished through the following objectives:

- Separate Alamos Creek from Almaden Lake.
- Reduce production of methylmercury, and mercury in target fish in Almaden Lake to meet applicable water quality objectives.
- Remove potential lake entrainment of anadromous fish.
- Improve temperature conditions and reduce predation for native fish.
- Minimize impacts to existing recreational features.

Specifically, the Project would include the following improvements:

- Separating Alamos Creek from Almaden Lake by constructing a levee and restoring the channel;
- Re-contouring the remaining lake bottom and capping it with clean fill;
- Expanding the Park area into a small portion of the existing lake at the beach area;
- Stabilizing the existing island and constructing a new additional island;
- Establishing appropriate native vegetation along the banks and floodplain of the restored Alamos Creek channel, new lake edge, and the islands;
- Connecting the lake via pipeline to an imported water supply from the nearby Almaden Valley Pipeline;
- Adding a pipeline connection between the lake and the Alamos Percolation Pond/Los Capitancillos Percolation Ponds (Ponds), which are groundwater recharge ponds operated by Valley Water; and
- Continuing to implement measures to manage and reduce future methylmercury production, such as solar-powered circulators.

Table 1 below summarizes the Project components. Details are provided in Final EIR Chapter 2.

**TABLE 1
SUMMARY OF PROJECT COMPONENTS**

Project Element	Description
Alamos Creek Restoration	Separation of Alamos Creek from the lake area
	Construction of a geomorphically stable, self-sustaining channel for Alamos Creek
	10 acres of restored creek area
	20-foot wide levee along top with maintenance road and public trail
	Construct two maintenance access ramps into new creek area
Almaden Lake Separation	Separation of the lake area from Alamos Creek
	15 acres of lake water surface area
	Reshaping of remaining lake bed and capping of mercury-laden sediment with clean clay
	Relocation of the boat launch ramp and boat house
Open Park Area Expansion	Addition of approximately 2 acres of open park area at the existing west beach and lake area
Island Areas Expansion and New	Expansion of existing island to 0.75 acres and construction of new 0.75 acre island
Almaden Lake Source Water Connection	Supplying of source water to the lake to maintain a water level between 188 feet and 190 feet above msl (consistent with existing conditions). Water would be supplied from the Almaden Valley Pipeline, which would provide imported raw water for use in the lake
Almaden Lake Connection to Alamos Percolation Pond or Los Capitancillos Percolation Ponds	Pumping Almaden Lake water via an outlet structure into a new pipeline connecting to Alamos Percolation Pond or Los Capitancillos Percolation Ponds for circulation.
Vegetation Installation	Installation of riparian vegetation along both sides of the new levee, west bank of the restored creek, and the islands

Construction would be phased, and would include the following activities:

- **Sheet Pile Installation:** Initially, a series of sheet piles would be installed along the alignment of the proposed levee system, through the middle of the lake using vibratory pile drivers, silent piles, or other similar method. This would allow for the draining of the lake.
- **Diverting Alamos Creek:** After the sheet piles are installed and prior to initiation of construction in the western portion of the lake, flow from Alamos Creek channel would be diverted around the construction area to facilitate earthwork operations using a cofferdam and pumps.
- **Draining Almaden Lake and Fish Relocation:** Once the lake is isolated from the creek and water level is reduced, boat-based electrofishing would commence to capture as many fish from the lake as possible. Any salmonids captured would be relocated upstream of the lake into Alamos Creek. Once lake levels are drawn down to the level of the lake bottom, additional groundwater dewatering may be required to maintain water levels below the surface of the lake bottom and enable development of a dry and stable working surface.
- **Shallow Sediment Dewatering:** Once the lake is drained to the extent possible the existing lakebed may be excavated to a minimum depth of 8 inches, and then dried by air to create a stable working surface. However, additional dewatering of shallow lake sediments may be required during construction of the levee foundation and grading of the lake bed. The Project area would be dewatered using sump pumps, well points, and/or installation of temporary drainage management facilities around excavations.
- **Working Surface Establishment and Vegetation and Debris Removal:** Debris, tree roots, and abandoned utilities within the grading area would be cleared and disposed properly.
- **Excavation and Fill:** Excavation activities for the Project include re-contouring the bed of Almaden Lake and Alamos Creek, preparing the levee foundation, reconfiguring/cutting the existing west bank of Almaden Lake, reconfiguring the shape of the existing island, trenching for inlet pipes south of Almaden Lake Park, and trenching for a pipeline from the lake to the Alamos Percolation Pond/Los Capitancillos Percolation Ponds pipeline.
- **Re-contouring of the Almaden Lake Bed and Levee and Berm Foundation Construction:** After completing excavation within the bed of Almaden Lake, all holes and depressions below the design grade and within the proposed lake bed area would be cleared and backfilled with engineered fill, and then adequately compacted. Sediments within the footprint of the proposed levee would be further reinforced through the construction of in-situ soil cement columns. The new levee would be constructed with a slope no greater than 2H:1V, and protected from erosion. Erosion protection would consist of an erosion resistant planting scheme, which would be subject to the approval of a qualified landscape architect.
- **Island Construction and New Park Area Construction:** The proposed islands would be constructed using a combination of sediment derived from cut areas of the existing island and existing berm near where Alamos Creek enters into the existing Lake, and as needed, imported fill material. The reconfigured island and proposed new island would be built up to an elevation similar to the existing island. Banks of the island would be stabilized, and the upper top two feet of soil would consist of low bulk density soil to support planting.

New park area would be constructed in a manner similar to the proposed islands, and would incorporate on-site fill to the extent available, and imported fill if/as needed.

- **Pipeline and Outlet Structure Construction:** A transfer pipeline would be constructed along McAbee Road to deliver water to Almaden Lake from the Almaden Valley Pipeline. The pipeline would be approximately 3,600 feet long and designed to carry a seasonal flow ranging from 5 cfs to 10 cfs with a diameter of about 16 inches, and would connect to the Almaden Valley Pipeline approximately 0.5 miles south (and upstream) of Almaden Lake. Water from Almaden Lake would be pumped through an approximately 2,600-foot-long pipeline with an approximate diameter of 16 inches to Alamitos Percolation Pond/Los Capitancillos Percolation Ponds pipeline.
- **Pump Station Construction:** The pump station located at the north edge of Almaden Lake Park would be installed.
- **Native Revegetation and Landscaping:** Revegetation would be initiated after the completion of construction and associated clean-up activities. In total, the Project would install up to eight acres of locally sourced, native vegetation. In addition, the two-acre area near the beach that would be converted to open park area would be planted in coordination with the City of San José Parks Department. Finally, pedestrian paths and maintenance access ramps would be installed, and picnic benches and boat launch facilities would be relocated.
- **Restoration of Creek Flows and Filling the Lake:** Once creek, west bank, and new park area construction and planting are complete, flows would be released back to Alamitos Creek. This would allow winter storm flows to pass through the construction area without damaging or substantially interfering with other construction activities. Almaden Lake would be refilled when creek construction, lake bottom recontouring, island grading, planting, and pipeline construction are complete.
- **Installation of SolarBees:** Following the lake construction, the existing SolarBees would be reinstalled to continue water circulation improvements in the lake. In addition to the existing four SolarBees currently being used, the Project would install three additional SolarBee devices to further improve water circulation. Overall, a total of seven SolarBee devices would operate in the lake water body.

IV. AVOIDANCE AND MINIMIZATION MEASURES

Avoidance and minimization measures are parameters built into the design of the Project and are committed to as part of Project implementation. These measures are presented in Final EIR Chapter 2, Project Description, Section 2.E.1, and include those taken from Valley Water's Best Management Practices Handbook (BMP Handbook) and from the Santa Clara Valley Habitat Plan (SCVHP).

IV.A VALLEY WATER BEST MANAGEMENT PRACTICES

Valley Water developed, and regularly updates the BMP Handbook, which provides a comprehensive list of best management practices (BMPs) that are regularly implemented in the

design, development, and construction of Valley Water projects with the purpose of avoiding or minimizing adverse environmental effects (SCVWD, 2014). Relevant BMPs have been incorporated into the Project (see Final EIR Page 2-29), and are identified in the EIR impact analyses.

BMPs to be utilized in the Project include:

- BI-2: Minimize Impacts to Steelhead.
- BI-3: Remove Temporary Fills.
- BI-5: Avoid Impacts to Nesting Migratory Birds.
- BI-6: Avoid Impacts to Nesting Migratory Birds from Pending Construction.
- BI-7: Minimize Impacts to Vegetation from Survey Work.
- BI-8: Choose Local Ecotypes of Native Plants and Appropriate Erosion-Control Seed Mixes.
- BI-9: Restore Riffle/Pool Configuration of Channel Bottom.
- HM-1: Comply with All Pesticide Application Restrictions and Policies.
- HM-2: Minimize Use of Pesticides.
- HM-3: Post Areas Where Pesticides Will Be Used.
- HM-4: Comply with All Pesticide Usage Requirements.
- HM-5: Comply with Restrictions on Herbicide Use in Upland Areas.
- HM-6: Comply with Restrictions on Herbicide Use in Aquatic Areas.
- HM-7: Restrict Vehicle and Equipment Cleaning to Appropriate Locations.
- HM-8: Ensure Proper Vehicle and Equipment Fueling and Maintenance.
- HM-9: Ensure Proper Hazardous Materials Management.
- HM-11: Ensure Worker Safety in Areas with High Mercury Levels.
- HM-12: Incorporate Fire Prevention Measures.
- WQ-3: Limit Impact of Pump and Generator Operation and Maintenance.
- WQ-5: Stabilize Construction Entrances and Exits.
- WQ-6: Limit Impact of Concrete Near Waterways.
- WQ-9: Use Seeding for Erosion Control, Weed Suppression, and Site Improvement.
- WQ-10: Prevent Scour Downstream of Sediment Removal.
- WQ-12: Manage Well or Exploratory Boring Materials.
- WQ-13: Protect Groundwater from Contaminates Via Wells or Exploratory Borings.
- WQ-15: Prevent Water Pollution.
- WQ-16: Prevent Stormwater Pollution.
- TR-1: Incorporate Public Safety Measures.

IV.B SANTA CLARA VALLEY HABITAT PLAN AVOIDANCE AND MINIMIZATION MEASURES

The SCVHP includes avoidance and minimization measures to protect endangered species and natural resources during activities permitted under the plan (see Final EIR Page 2-35); a comprehensive discussion of these measures is presented in EIR Appendix C – Santa Clara Valley Habitat Plan. Avoidance and minimization measures from the SVHCP to be utilized in the Project include:

1. Minimize the potential impacts on covered species most likely to be affected by changes in hydrology and water quality.
5. Invasive plant species removed during maintenance will be handled and disposed of in such a manner as to prevent further spread of the invasive species.
13. Personnel shall use the appropriate equipment for the job that minimizes disturbance to the channel bed and banks. Appropriately-tired vehicles, either tracked or wheeled, shall be used depending on the situation.
15. If native fish or non-covered, native aquatic vertebrates are present when cofferdams, water bypass structures, and silt barriers are to be installed, a native fish and aquatic vertebrate relocation plan shall be implemented when ecologically appropriate as determined by a qualified biologist to ensure that significant numbers of native fish and aquatic vertebrates are not stranded.

Prior to the start of work or during the installation of water diversion structures, native aquatic vertebrates shall be captured in the work area and transferred to another reach as determined by a qualified biologist. Timing of work in streams that supports a significant number of amphibians will be delayed until metamorphosis occurs to minimize impacts on the resource. Capture and relocation of aquatic vertebrates is not required at individual project sites when site conditions preclude reasonably effective operation of capture gear and equipment, or when the safety biologist conducting the capture may be compromised.

Listed species not covered by the Habitat Plan will not be relocated without the appropriate permits and authorizations from the correct agencies.

Relocation of native fish or aquatic vertebrates may not always be ecologically appropriate. Prior to capturing fish and/or vertebrates, the qualified biologist will use factors, including site conditions, system carrying capacity for potential relocated fish, and flow regimes (e.g., if flows are managed) to determine whether a relocation effort is ecologically appropriate. If so, the following factors will be considered when selecting release site(s):

1. Similar water temperature as capture location;
2. Ample habitat availability prior to release of capture individuals;
3. Presence of other same species so that relocation of new individuals will not upset the existing prey/predation function;
4. Carrying capacity of the relocation location;

5. Potential for relocated individual to transport disease; and
6. Low likelihood of fish reentering work site or becoming impinged on exclusion net or screen.

Proposals to translocate any covered species will be reviewed and approved by the Wildlife Agencies.

20. Conditions for fish passage shall be met as long as the diversion;
 1. Maintains contiguous flows through a low flow channel bed or an artificial open channel,
 2. Presents no vertical drops exceeding six (6) inches and follows the natural grade of the site,
 3. Maintains flow at the downstream end of the diversion within 1 cubic foot per second (cfs) of flows at the upstream end, and
 4. Maintains adequate water depths in the bypass channel to ensure no impediment to upstream or downstream movement of fish is imposed.
30. Vegetation control and removal in channels, on stream banks, and along levees and maintenance roads shall be limited to removal necessary for facility inspection purposes, or to meet regulatory requirements or guidelines.
- 31.1 When conducting vegetation management, retain as much understory brush and as many trees as feasible, emphasizing shade-producing and bank-stabilizing vegetation. Carry out the activity in such a manner as to minimize impacts to the natural community present and encourage regrowth of the community structure appropriate to the site.
- 31.2 If riparian vegetation is to be removed with chainsaws, consider using saws currently available that operate with vegetable-based bar oil.
44. Maintenance of natural stream characteristics consistent with the stream section, such as riffle-pool sequences, riparian canopy, sinuosity, floodplain, and natural channel bed, will be incorporated into the Project design.
49. The project or activity must be designed to avoid the removal of native riparian vegetation, where feasible. If the removal native of riparian vegetation is necessary, the amount shall be minimized to the amount necessary to accomplish the required activity and comply with public health and safety directives. Impacts to nonnative vegetation that is determined to be providing unique habitat value (such as shading, foraging habitat, or nesting area) shall be avoided and minimized in the same manner as native vegetation.
50. If levee reconstruction requires the removal of vegetation that provides habitat value to the adjacent stream (e.g., shading, bank stabilization, food sources, etc.), then the project will include replacement of the vegetation/habitat that was removed during reconstruction unless it is determined to be inappropriate to do so by the relevant resource agencies (e.g., CDFW and USFWS).

- 68. Stabilize stockpiled soil with geotextile or plastic covers. Materials that may entrap reptiles and amphibians, such as mono-filament erosion control materials, shall be avoided.
- 71. Preserve existing vegetation to the extent possible.
- 78. In-stream projects occurring while the stream is flowing must use appropriate measures to protect water quality, native fish and covered wildlife species at the Project site and downstream of the Project site.
- 80. All personnel working within or adjacent to the stream setback (i.e., those people operating ground-disturbing equipment) will be trained by a qualified biologist in these avoidance and minimization measures and the permit obligations of project proponents working under this Plan.
- 84.1 Appropriate erosion control measures (e.g., fiber rolls, filter fences, vegetative buffer strips) will be used on site to reduce siltation and runoff of contaminants into wetlands, ponds, streams, or riparian vegetation. Erosion control measures will be placed between the outer edge of the buffer and the project site.
- 84.2 Fiber rolls used for erosion control will be certified as free of noxious weed seed.
- 84.3 Filter fences and mesh will be of material that will not entrap reptiles and amphibians.
- 86. Topsoil removed during soil excavation will be preserved and used as topsoil during revegetation when it is necessary to conserve the natural seed bank and aid in revegetation of the site.
- 89. The potential for traffic impacts on terrestrial animal species will be minimized by adopting traffic speed limits.
- 90. All trash will be removed from the site daily to avoid attracting potential predators to the site. Personnel will clean the work site before leaving each day by removing all litter and construction-related materials.
- 91. To prevent the spread of exotic species and reduce the loss of native species, aquatic species will be netted at the drain outlet when draining reservoirs or ponds to surface waters. Captured native fish, native amphibians, and western pond turtles will be relocated if ecologically appropriate. Exotic species will be dispatched.
- 92. To minimize the spread of pathogens all staff working in aquatic systems (i.e., streams, ponds, and wetlands)—including site monitors, construction crews, and surveyors—will adhere to the most current guidance for equipment decontamination provided by the Wildlife Agencies at the time of activity implementation.
- 93. When accessing upland areas adjacent to riparian areas or streams, access routes on slopes of greater than 20% should generally be avoided. Subsequent to access, any sloped area should be examined for evidence of instability and either revegetated or filled as necessary to prevent future landslide or erosion.

95. To minimize entrapment of animals on job sites, the project biologist will survey the work area at the close daily activities to identify and remediate any potential areas or conditions that might trap animals. Examples of such include pits, trenches or pipes that animals can fall into or perforated pipes or netting that can cause entanglement.
103. Unless otherwise indicated in an Executive Directive issued by the Habitat Agency, for example a directive to address plant pathogens, (103.1) all disturbed soils will be revegetated with native plants, grasses, seed mixtures, or sterile nonnative species suitable for the altered soil conditions upon completion of construction. (103.2) Local watershed native plants will be used if available. If sterile nonnative species are used for temporary erosion control, native seed mixtures must be used in subsequent treatments to provide long-term erosion control and slow colonization by invasive nonnatives. (103.3) All disturbed areas that have been compacted shall be de-compacted prior to planting or seeding. (103.4) Cut-and-fill slopes will be planted with local native or non-invasive plants suitable for the altered soil conditions.
105. Vegetation and debris must be managed in and near culverts and under and near bridges to ensure that entryways remain open and visible to wildlife and that passage through the culvert or bridge remains clear.
107. On streams managed for flood control purposes, when stream reaches require extensive vegetation thinning or removal (e.g., when the channel has been fully occluded by willows or other vegetation), removal will be phased so that some riparian land cover remains and provides some habitat value.

V. SCOPING AND DRAFT EIR CIRCULATION

In accordance with Section 15082 of the CEQA Guidelines, Valley Water, as the CEQA lead agency, prepared a Notice of Preparation (NOP). The NOP contained a description of the Project, a discussion of possible alternatives, a map of the Project area, and a summary of the probable environmental effects of the Project to be addressed in the EIR. On March 27, 2014, the NOP was mailed to interested parties, including individuals; local, state, federal agencies, and; posted by the County Clerk. The 30-day scoping period remained open through April 26, 2014. On April 9, 2014, Valley Water held a Project scoping and update meeting at Castillero Middle School. An invitation to the meeting was mailed to approximately 3,000 area residents, and was posted on Valley Water's website, with an announcement posted on the Project's blog. The NOP was sent, via certified mail, to all applicable resource agencies required under CEQA.

Valley Water received four comment letters from local organizations, and state and federal agencies during the scoping period, as well as 30 questions from attendees during the public meeting on April 9, 2014. The NOP, comment letters, and questions (with Valley Water responses) from the public meeting are included in the EIR as Appendix A.

This Draft EIR (DEIR) was made available to local, state, and federal agencies, and to interested organizations and individuals, for a 45-day period, from December 13, 2019 through January 27, 2020. Notice of the DEIR was also sent directly to every agency, person, or organization that commented on the NOP. During this 45-day review period, copies of the DEIR were made available for public review at the following locations:

- Santa Clara Valley Water District Office, located at 5750 Almaden Expressway, San José
- Public libraries
 - Almaden Branch Library, 6445 Camden Avenue, San José
 - Vineland Branch Library, 1450 Blossom Hill Road, San José
 - Pearl Avenue Branch Library, 4270 Pearl Avenue, San José
 - Edenvale Branch Library, 101 Branham Lane East, San José
 - Cambrian Branch Library, 1780 Hillsdale Avenue, San José
 - Santa Teresa Branch Library, 290 International Circle, San José

An electronic copy of the DEIR was also available on Valley Water's website.

Valley Water conducted a public hearing to receive oral comments on the adequacy of the analysis included in the DEIR. The meeting was held on January 8, 2020, at the Valley Water Headquarters in San Jose.

Written comments on the Draft EIR were provided by one (1) federal agency, three (3) state agencies, and five (5) organizations; thirty-three (33) comment letters were provided by twenty-six (26) individuals. No comments were provided by local agencies. Table 2 lists all agencies, organizations, and persons that submitted written comments on the Draft EIR during the comment period, and the date of each written comment.

**TABLE 2
PERSONS AND ORGANIZATIONS THAT SUBMITTED COMMENTS ON THE DRAFT EIR**

Agency/Organization	Commenter	Letter Dated
National Marine Fisheries Services	Gary Stern	4/04/2020
Department of Fish and Wildlife	Gregg Erickson	2/4/2020
Guadalupe-Coyote Resource Conservation District	Stephanie Moreno	1/27/2020
San Francisco Bay Regional Water Quality Control Board	Nicole Fairley	2/4/2020
California Trout and San Francisco Baykeeper	Patrick Samuel	1/31/2020
Citizens Committee to Complete the Refuge	Eileen McLaughlin	1/27/2020
Salmon and Steelhead Restoration	Roger Castillo	1/27/2020
Santa Clara Creeks Coalition	Richard McMurtry	12/22/2019
Sierra Club Loma Prieta Chapter	Katja Irvin	1/27/2020
Individual	Anonymous	1/08/2020
Individual	Dave Armstrong	1/08/2020
Individual	Dave Armstrong	1/08/2020
Individual	Deborah Barry	1/26/2020
Individual	William Bernard	undated
Individual	Helen Brock	1/08/2020
Individual	Steve Conaway	1/08/2020

TABLE 2
PERSONS AND ORGANIZATIONS THAT SUBMITTED COMMENTS ON THE DRAFT EIR

Agency/Organization	Commenter	Letter Dated
Individual	Ray Copeland	1/07/2020
Individual	Jeff Daniels	1/08/2020
Individual	Howard Demroff	1/07/2020
Individual	Howard Demroff	1/08/2020
Individual	Brenda Dohmen	1/26/2020
Individual	Stephen Ferree	1/08/2020
Individual	J.B Frommer_Boyer	1/04/2020
Individual	Edward Klaus	1/07/2020
Individual	Greg Koopman	1/08/2020
Individual	Jim Kuhl	1/26/2020
Individual	Jim Kuhl	1/26/2020
Individual	Jennifer Lang	1/04/2020
Individual	John Miller	1/06/2020
Individual	Edna Padilla	1/08/2020
Individual	Steven Pagan	1/08/2020
Individual	Marie Roldan	1/22/2020
Individual	Gavin Romero	1/08/2020
Individual	Tristan Romero	1/08/2020
Individual	Michelle Smith	12/28/2020
Individual	Susan Tran	1/06/2020
Individual	Bernadette Troyan	1/08/2020
Individual	Jeff Watt	1/08/2020
Individual	Jeff Watt	1/10/2020
Individual	Jeff Watt	1/15/2020
Individual	Jeff Watt	1/26/2020
Individual	Marshall White	12/28/2020

A number of comments that were received addressed similar concerns. Responses to these comments were consolidated into master responses and are provided in Final EIR Appendix G, Section G.3, *Master Responses*. Two master responses were prepared in response to issues that elicited numerous comments. These master responses include:

- Consideration of Additional CEQA Alternative; and
- Effectiveness of Project Achieving Ecological Goals Related to Fishery Habitat

Responses to all comments received on the Draft EIR are provided in Final EIR Appendix G, Section G.4, *Individual Comments and Responses*.

VI. FINAL EIR AND CERTIFICATION

All written comments received on the adequacy of the DEIR during the public review period are addressed in the “response-to-comments” document (EIR Appendix G) which, together with the DEIR, constitute the Final EIR. The response-to-comments document also presents any changes to the DEIR resulting from public and agency input and District staff-initiated changes. The Final EIR is incorporated herein by this reference.

By separate action, pursuant to CEQA Guidelines Sec. 15090, on May 11, 2021 the Board certified that:

- The Final EIR has been completed in compliance with CEQA;
- The Final EIR was presented to the decision-making body of the lead agency—the Board—and that the decision-making body reviewed and considered the information contained in the Final EIR prior to approving the project; and,
- The Final EIR reflects the lead agency’s independent judgment and analysis.

VII. ADMINISTRATIVE RECORD

The administrative record upon which the Board’s Findings are based includes, but is not limited to, the following:

- The Final EIR;
- The reports and other documents referenced in the Final EIR;
- The draft Mitigation Monitoring and Reporting Program;
- All reports, studies, memoranda, maps, staff reports, or other planning documents related to the Project prepared by Valley Water or consultants to Valley Water with respect to the Valley Water’s compliance with the requirements of CEQA and with respect to Valley Water’s action on the Project;
- All oral, written and electronic evidence submitted to the Valley Water prior to the close of Valley Water’s hearings on the Project;
- Any documents expressly cited in these Findings, in addition to those cited above; and
- All documents constituting the record pursuant to Public Resources Code § 21167.6(e).

The administrative record is located at Valley Water Headquarters, 5750 Almaden Expressway, San Jose CA. The custodian of the administrative record is the Clerk of the Board of the Santa Clara Valley Water District.

VIII. FINDINGS OF FACT

Regarding the Environmental Impact Report (EIR) prepared for the proposed project, the Board finds as follows.

VIII.A EFFECTS FOUND TO BE LESS THAN SIGNIFICANT

The EIR concludes that the Project will result in less than significant impacts for the following resource areas:

- Aesthetics (Final EIR Section 3.A, Page 3.A-17): Scenic Vistas (Impact 3.A-1, during construction and operation); Scenic Resources (Impact 3.A-2, during construction and operation); Visual Character (Impact 3.A-3, during operation), and; Light or Glare (Impact 3.A-4, during construction and operation).
- Agricultural and Forest Resources (Final EIR Section 3.B, Page 3.B-6): Prime, Unique or Farmland of Statewide Importance (Impact 3.B-1); Conflict with Existing Zoning or Williamson Act Contracts (Impact 3.B-2); Cumulative Effects (Impact 5.B).
- Air Quality Impact (Final EIR Section 3.C, Page 3.C-19): Cumulatively Considerable Net Increase of a Criteria Air Pollutant (Impact 3.C-2, during operations); Exposure to Substantial Pollutant Concentrations (Impact 3.C-3, during operations); Odors (Impact 3.C-4, during construction and operations).
- Biological Resources (Final EIR Section 3.D, Page 3.D-25): Special-status birds, common nesting migratory birds (Tricolored Blackbird, Impact 3.D-1, during operations); California red-legged frog, foothill yellow-legged frog, and western pond turtle (Impact 3.D-2, during construction and operations); riparian communities (Impact 3.D-3, during construction and operations); Jurisdictional Wetlands, Other Waters of the U.S. and Waters of the State (Impact 3.D-4, during construction and operations); Movement of Any Native Resident or Migratory Wildlife Species (Impact 3.D-5, during construction and operations).
- Fisheries Resources (Final EIR Section 3.E, Page 3.E-16): substantial effect on special-status native fish and their aquatic habitat (Impact 3.E-1, during operations); interfere with movement or migration of native fish species (Impact 3.E-2, during construction and operations); conflict with local policies or ordinances protecting fisheries resources or with an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan (Impact 3.E-3, during construction and operations).
- Energy (Final EIR Section 3.G, Page 3.G-7): Wasteful, inefficient, or unnecessary consumption of energy resources (Impact 3.G-1, during operations)
- Geology and Soils (Final EIR Section 3.H, Page 3.H-12): Seismic Groundshaking (Impact 3.H-1, during construction and operations); Soil Erosion or Topsoil Loss (Impact 3.H-2, during construction and operations); landsliding, lateral spreading, subsidence, liquefaction, or collapse (Impact 3.H-3, during construction and operations); expansive or corrosive soils (Impact 3.H-4, during construction and operations); paleontological resource or site or unique geological feature (Impact 3.H-5, during construction); cumulative effects (Impact 5.H).

- Greenhouse Gas Emissions (Final EIR Section 3.I, Page 3.I-12): Greenhouse Gas Emissions (Impact 3.I-1, during construction and operations); Plan, Policy or Regulation (Impact 3.I-2, during construction and operations); Cumulative effects (Impact 5.I).
- Hazards and Hazardous Materials (Final EIR Section 3.J, Page 3.J-14): hazards to the public from Hazardous Materials, contaminated soils, or pesticides (Impacts 3.J-1, 3.J-2 and 3.J-3, during construction and operations); located on a hazardous materials site (Impact 3.J-4, during construction and operations); interfere with an emergency response plan (Impact 3.J-5, during construction and operations); cumulative effects (Impact 5.J).
- Hydrology and Water Quality (Final EIR Section 3.K, Page 3.K-20): Groundwater Quality (Impact 3.K-1, during operations); Groundwater Supplies (Impact 3.K-2, during construction and operations); Alter Existing Drainage Patterns (Impact 3.K-3, during operations).
- Noise Final EIR Section 3.L, Page 3.L-12): Substantial Increase in Ambient Noise Levels (Impact 3.L-1, during operations); Excessive Vibration and Groundborne Noise (Impact 3.L-2, during construction and operations).
- Public Services (Final EIR Section 3.M, Page 3.M-4): fire protection, police services and emergency medical response services (Impact 3.M-1, during construction and operations); existing neighborhood and regional parks and recreation centers (Impact 3.M-2, during construction and operations); cumulative effects (Impact 5.M).
- Recreation (Final EIR Section 3.N, Page 3.N-6): increase the use of existing neighborhood and regional parks (Impact 3.N-1, during construction and operations); construction or expansion of recreational facilities (Impact 3.N-2, during construction and operations); cumulative effects (Impact 5.N).
- Transportation (Final EIR Section 3.O, Page 3.O-10): conflict with a program plan, ordinance or policy addressing the circulation system (Impact 3.O-1, during construction); conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b) (Impact 3.O-2, during construction); increase hazards (Impact 3.O-3, during construction); inadequate emergency access (Impact 3.O-4, during construction); cumulative effects (Impact 5.O).
- Utilities and Service Systems (Final EIR Section 5.P, Page 5.P-6): Utilities Construction or Relocation (Impact 3.P-1, during construction and operations); Solid Waste Capacity (Impact 3.P-2, during construction and operations); Solid Waste Regulations (Impact 3.P-3, during construction and operations); cumulative effects (Impact 5.P).

Although findings on less-than-significant impacts are not required by CEQA, the Board nevertheless finds, based on the EIR and the entire record, that the EIR's conclusions regarding these specific impacts are correct.

VIII.B SIGNIFICANT IMPACTS THAT CAN BE MITIGATED TO A LESS THAN SIGNIFICANT LEVEL

VIII.B.1 Air Quality

Impact 3.C-1: The Project would conflict with or obstruct implementation of the applicable air quality plan (during construction and operation).

Impact (Final EIR Section 3.C, Page 3.C-19)

The most recently adopted air quality plan for the Project area is the 2017 Bay Area Air Quality Management District (BAAQMD) Climate Action Plan (CAP). The 2017 CAP focuses on two closely-related goals: protecting public health and protecting the climate. The 2017 CAP Transportation Control Measure TR22, *Construction, Freight, and Farming Equipment*, provides incentives for the early deployment of electric, Tier 3, and 4 off-road engines used in construction, freight, and framing equipment. Lack of compliance with this requirement would be considered a **significant impact**. Additionally, the Project could potentially be inconsistent with the 2017 CAP, resulting in a **significant impact**.

Mitigation (Final EIR Section 3.C, Page 3.C-20)

To avoid this impact, Valley Water and/or its construction contractors shall be required to use off-road diesel construction equipment compliant with U.S. EPA Tier 4 non-road engine standards per **Mitigation Measure 3.C-1a (U.S. EPA Tier 4 Engines)**. Mitigation Measure 3.C-1a (U.S. EPA Tier 4 Engines) requires that prior to commencement of construction activities, the construction contractor and/or Valley Water shall prepare an equipment list that identifies each piece of off-road equipment to be operated at the Project site by its equipment identification number (EIN) and demonstrates that each piece of equipment meets U.S. EPA Tier 4 non-road engine standards. The list shall be made available at the construction site and shall be updated when new or replacement construction equipment are brought to the site.

In addition, **Mitigation Measure 3.C-1b (BAAQMD Basic Construction Measures)** requires Valley Water and/or its construction contractors to comply with the Bay Area Air Quality Management District (BAAQMD) Basic Construction Mitigation Measures that include, but are not limited to, limiting idling times, covering haul trucks, and maintaining construction equipment, which are recommended measures that support achieving 2017 CAP goals.

Finding

Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures 3.C-1a and 3.C-1b as described in the Final EIR are feasible, and hereby adopts them. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. With these measures in place, equipment will meet U.S. EPA Tier 4 non-road engine standards, and the project will comply with the BAAQMD Basic Construction Mitigation Measures. Therefore, the Project would not conflict with or obstruct implementation of the applicable air quality plan during construction and the impact would be reduced to **less than significant with mitigation**.

Furthermore, future maintenance of the Project, such as sediment removal and bank repair activities, would also comply with the same mitigation measures to ensure they are consistent

with the applicable air quality plan, and therefore, the impact during operations would also be reduced to **less than significant with mitigation**.

Impact 3.C-2: The Project would result in a cumulatively considerable net increase of a criteria pollutant for which the San Francisco Bay Area Air Basin (SFBAAB) is in non-attainment under applicable federal and state ambient air quality standards (during construction)

Impact (Final EIR Section 3.C, Page 3.C-21)

The BAAQMD thresholds of significance represent the levels at which a project's individual emissions of criteria air pollutants or precursors would result in a cumulatively considerable contribution to the SFBAAB's existing air quality conditions. If daily average construction or operation emissions, or annual operation emissions of criteria air pollutants or precursors would exceed these thresholds, a project would result in a cumulatively significant impact. Criteria pollutant emissions of ROG, PM₁₀, and PM_{2.5} would not exceed the applicable significance thresholds; however, exhaust emissions of NO_x would exceed the significance threshold. The BAAQMD threshold for NO_x is 54 pounds per day and the Project is estimated to produce 93.37 pounds per day and would result in a cumulatively considerable contribution, a **significant impact**.

In addition to exhaust emissions, emissions of fugitive dust would also be generated by Project-related construction activities associated with grading and earth disturbance, travel on paved and unpaved roads, and other construction related activities. Per BAAQMD Guidelines, failing to incorporate dust control measures is a **significant impact**.

Mitigation (Final EIR Section 3.C, Page 3.C-20)

To avoid adverse impacts during construction, Valley Water and/or its construction contractors would implement **Mitigation Measure 3.C-1a (U.S. EPA Tier 4 Engines)** and **Mitigation Measure 3.C-1b (BAAQMD Basic Construction Measures)**.

Finding

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures 3.C-1a and 3.C-1b are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. With these measures in place, Project construction emissions of NO_x is estimated to be reduced to 47.20 pounds per day which is below the BAAQMD threshold, and Project construction generation of fugitive dust would be minimized. As a result, the Project would not result in a cumulatively considerable net increase of NO_x or fugitive dust emissions, and the impact would be reduced to **less than significant with mitigation**.

Impact 3.C-3: The Project would expose sensitive receptors to substantial pollutant concentrations (during construction)

Impact (Final EIR Section 3.C, Page 3.C-24)

The various construction activities associated with the Project would generate exhaust emissions, including diesel particulate matter (DPM) which is a known toxic air contaminant (TAC) that is used as a surrogate measure of carcinogen exposure for the mix of chemicals that make up diesel exhaust as a whole. Exposure of sensitive receptors to TAC emissions could

result in an elevated health risk. A health risk assessment (HRA) was performed to quantify cancer risks, chronic non-cancer health hazards, and average annual PM_{2.5} concentrations for nearby receptors based on the Project's annual average PM₁₀ emissions which were compared to the BAAQMD's corresponding thresholds of significance. If construction of the Project would occur over a 24-month period between 2021 and 2023, the annual average construction emissions associated with the Project was determined to result in a maximum chronic hazard index of 0.15, which is below the BAAQMD thresholds of 1.0. However, the HRA also concluded that the maximally exposed individual would be exposed to an incremental cancer risk of 48.4 in 1 million, which is above the BAAQMD threshold of 10 in 1 million. Therefore, overall Project-related construction activities would expose existing sensitive receptors to substantial pollutant concentrations, and this is considered **a significant impact**.

Mitigation (Final EIR Section 3.C, Page 3.C-20)

To avoid adverse impacts during construction, Valley Water and/or its construction contractors would implement **Mitigation Measure 3.C-1a (U.S. EPA Tier 4 Engines)** and **Mitigation Measure 3.C-1b (BAAQMD Basic Construction Measures)**.

Finding

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures 3.C-1a and 3.C-1b are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. Implementation of Mitigation Measure 3.C-1a would reduce cancer risks from Project construction to below the applicable threshold by requiring use off-road diesel construction equipment compliant with U.S. EPA Tier 4 nonroad engine standards. In addition, implementation of Mitigation Measure 3.C-1b would ensure that there would be no significant toxic airborne risks associated with fugitive dust from mercury contaminated soils or sediment. With these measures in place, the incremental cancer risk is reduced to 5.1 in 1 million, which is below the threshold of 10 in 1 million and the exposure of sensitive receptors to substantial pollutant concentrations (during construction), would be reduced to **less than significant with mitigation**.

VIII.B.2 Biological Resources

Impact 3.D-1: The Project could have a substantial effect on common nesting migratory birds and raptors, and roosting bats in the Study Area (during construction).

Impact (Final EIR Section 3.D, Page 3.D-25)

Great egret, snowy egret, great-blue heron, and black-crowned night heron are known to nest within the Study Area, specifically on the island in the lake. Known and potential suitable nesting habitat for double-crested cormorants is located within the north, south, and east areas of Almaden Lake Park and adjacent riparian areas. Common migratory birds and common and special-status raptors, including Cooper's hawk, northern harrier, red-tailed hawk, red-shouldered hawk, and green heron have the potential to nest in the Study Area's park trees and shrubs, riparian corridor, and on the lake island. Direct impacts on nests in mature trees, such as oak and eucalyptus, could occur from the removal of trees, vegetation on the island, riparian corridor, and general Almaden Lake parklands. Noise and visual disturbance generated from creek diversion and lake dewatering, site excavation and earthwork, construction of the levee,

islands, and park could disturb nesting within the Study Area resulting in nest abandonment. The loss or disturbance of an active nest would result in a **significant impact**.

The Project also has the potential to affect roosting bats, during construction. Direct disturbance could result from tree removal, or roost destruction by any other means. Indirect disturbance to bat roosts could result from construction-associated noise or vibration, or increased human activity in the area. Increased noise, vibration, lights or the reconfiguration of large objects can lead to the disturbance of roosting bats, which may lead to behavioral alterations. Although there is an existing high level of disturbance in the Project vicinity originating from the roadways and recreational and maintenance activities in Almaden Lake Park, suitable roosting habitat could be present in the dense foliage along the riparian corridors of Alamitos Creek and Guadalupe Creek. Construction activities, such as tree removal, could destroy bat roosts or disturb maternity colonies, a **significant impact**.

Mitigation (Final EIR Section 3.D, Page 3.D-28)

Implementation of **Mitigation Measure 3.D-1a (Nesting Bird Protection Measures)** would establish no work buffer zones around active nests identified on or near the Project area. Specifically, Mitigation Measure 3.D-1a (Nesting Bird Protection Measures) requires Valley Water and/or its contractor to limit removal of trees and scrub vegetation to outside the bird nesting season (January 15 to September 1) to the extent feasible or otherwise require a qualified biologist to conduct preconstruction nesting surveys within seven days prior to the start of such removal or after any construction breaks of seven days or more. This mitigation measure also requires the completion of surveys for the Study Area and the suitable habitat within 250 feet of the project site to locate any active raptor (birds of prey) nests or rookeries. If active nests are located during the preconstruction bird nesting survey, the qualified biologist shall evaluate if the schedule of construction activities could affect the nests and certain measures shall be implemented that would ensure the protection of nesting birds.

Implementation of **Mitigation Measure 3.D-1b (Protective Measures for Bats)** would require Valley Water to engage a qualified biologist to conduct a habitat assessment for suitable bat roost habitat features, followed by a preconstruction survey of the Project area to locate active colonies and/or special-status species, conducted in an appropriate timeframe in advance of initiation of tree trimming or removal, or disturbance to other potential roost features, and to plan work accordingly to avoid or minimize impacts. Mitigation Measure 3.D-1b (Protective Measures for Bats) states the preconstruction survey shall include at a minimum: a) identification of potential direct and indirect Project-related disturbing activities; b) locations of potential roost habitat features; c) species identification and locations of active bat colonies or special status bats within or adjacent to the Project area, along with estimated numbers when possible; and d) a description of protective measures to be implemented prior to construction. No Project-related activities that could disturb active roosts shall proceed prior to the completed surveys. The surveys would identify structures possessing suitable bat roosting habitat in the Project area, and the establishment of an adequate construction buffer to prevent inadvertent disturbance of active roosts. The mitigation measure requires the implementation of certain measures, such as limiting the removal of trees to outside the time frame when bats are active and requiring the presence of qualified biologists to monitor during tree or habitat feature disturbance, if special-status bats are found in trees or structures planned to be disturbed under the proposed Project or if the qualified biologist determines that Project activities would result in significant impacts to bats.

Finding

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures 3.D-1a and 3.D-1b are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. By limiting the removal of trees and scrub vegetation to outside the bird nesting season, and conducting preconstruction nesting surveys and surveys for suitable habitat within 250 feet of the project site to locate any active raptor (birds of prey) nests or rookeries, and the scheduling of construction activities and the implementation of certain avoidance measures, and the establishment of an adequate construction buffer to prevent inadvertent disturbance of active bat roosts, and by limiting the removal of trees to outside the time frame when bats are active, the significant impacts on common nesting migratory birds and raptors, and roosting bats during construction would be reduced to **less than significant with mitigation**.

Impact 3.D-6: The Project could conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance (during construction).

Impact (Final EIR Section 3.D, Page 3.D-39)

The City of San José provides for the protection of trees in the Municipal Code (Code) Sections 13.28, 13.32 and 13.44.220. A tree subject to the Code is a single trunk tree, which is 38 inches or more in circumference at 4.5 feet above ground; or a multi-trunk tree, where the combined measurements of each trunk circumference add up to 38-inches or more. While the Project would remove approximately 81-95 trees within Almaden Lake Park to accommodate Project construction, Valley Water would implement the applicable tree protection measures and replacement requirements of the City if required by the City, and the direct impact of tree removal would therefore, not conflict with City Code, plans, or guidance related to trees; this impact would therefore be less than significant. However, Project construction could impact trees subject to the City Code through inadvertent limb and/or root damage. Such damage could lead to tree mortality after Project construction is completed, which would conflict with the City Code, plans, and guidance related to trees, and would be considered a **significant impact**.

Mitigation (Final EIR Section 3.D, Page 3.D-40)

Implementation of **Mitigation Measure 3.D-6 (Tree Protection Measures)** would ensure the Project protects trees from inadvertent damage, and reduce the Project's potential for conflict with City of San José tree codes, plans, and guidance related to trees. Trees adjacent to the project area that are retained during construction can still experience irreparable damage to roots and other tree parts with excavation, compaction, mechanical injury, and/or over pruning for construction access. Mitigation Measure 3.D-6 (Tree Protection Measures) requires, prior to construction, that construction impacts be evaluated and planned to avoid native trees and other trees protected by City code by requiring a site meeting with the contractor, certified arborist, and other project personnel to discuss tree protection measures and specific tree resources.

Mitigation Measure 3.D-6 (Tree Protection Measures) requires the following:

- Construction impacts shall be evaluated and planned to avoid locally native trees and other trees protected by City code. A site meeting with contractor, certified arborist, and other project personnel shall be conducted prior to construction to discuss tree

protection measures and specific tree resources. The construction contract must include the on-call services of qualified arborist.

- All pruning work shall be conducted or directly overseen by a certified arborist. All pruning shall be done in accordance with ISA “Tree Pruning Guidelines” and/or the ANSI A300 Pruning Standards. Pruning of limbs and roots shall be minimized and conducted during cool, dry weather outside the active growing season when feasible. Access needs and equipment clearance shall be determined well in advance of construction to help schedule required pruning work at a time that is least detrimental to the tree species involved.
- Pruning of more than 25% of an individual tree’s canopy or crown in a single season shall be avoided. Removal of live limbs greater than 4 inches in diameter shall be avoided if possible or receive prior approval by a certified arborist. Selective removal of tree limbs for equipment access is always preferable to mechanical injury or incidental contact of equipment with tree parts during construction. Some branches may be tied back temporarily, rather than removed, to facilitate site access.
- Establish a “Tree Protection Zone” (TPZ) around trees retained in the project area during construction. The TPZ shall be clearly marked and defined in the field using fencing or similar access deterrent and should be determined by the City’s Arborist, or the Project designated ISA Certified arborist. No grading, compaction, excavation, soil storage, equipment storage, hazardous material storage, removal of understory vegetation, or equipment operation shall be conducted in the TPZ.
- Any grading, construction, demolition, or excavation work that may encounter live tree roots (from trees scheduled for retention in Project area) shall be monitored by a certified arborist. Roots may extend beyond the canopy dripline or there may be insufficient space available for an adequate TPZ. Compaction of undisturbed native soils shall be considered as part of root area impacted by construction.
- When larger roots (>2-inch diameter) are encountered during construction, excavations shall only continue by hand or with smaller, hand-held tools (e.g. air spade) until sufficient root area has been exposed to cut it cleanly with a sharp instrument (e.g. pruning saw, cut-off saw, loppers) to remove the portion overlapping the construction area. Root pruning shall be conducted by or under direct supervision of a certified arborist.
- If feasible, root pruning along the outside edge of a trench or other excavation shall be conducted prior to construction utilizing a combination of small equipment (i.e. trencher, small backhoe, cut-off saw) and hand tools. This “pre-pruning” gives the trees a chance to adapt to root loss prior to construction and develop new feeder roots that aid in water absorption.
- All tools used for pruning of tree roots or limbs shall be kept sharp and regularly disinfected to discourage the spread of plant pathogens.

Finding

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure 3.D-6

is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the Project construction documents (plans and specifications) to ensure its implementation. With this mitigation in place, the avoidance of native trees and other trees protected by City code, and implementation of specific tree protection measures and replacement requirements of the City would be met, and conflicts with City of San José tree codes, plans, and guidance related to trees would be reduced to **less than significant with mitigation**.

VIII.B.3 Fisheries Resources

Impact 3.E-1: The Project would have a substantial effect on special-status native fish and their aquatic habitat in Almaden Lake and Alamos Creek (during construction).

Impact (Final EIR Section 3.E, Page 3.E-16)

Due to the nature and amount of in-water work required by the Project, construction activities (including fish relocation activities) could result in the accidental take of special-status native fish even with the implementation of project elements, BMPs, and Avoidance and Minimization Measures. This would be a **significant impact**.

Mitigation (Final EIR Section 3.E, Page 3.E-20)

Implementation of **Mitigation Measure 3.E-1 (Native Fish Capture and Relocation)** would require the preparation and implementation of a capture and relocation plan with specific components to minimize impacts on steelhead, salmon, and lamprey, should any be present during electrofishing, capture and relocation. Mitigation Measure 3.E-1 (Native Fish Capture and Relocation) requires Valley Water and/or contractor to implement a fish relocation plan consistent with the following conditions:

- Before fish rescues are attempted resource agency authorization shall be obtained
- Upon arrival at the site, qualified biologists shall determine the extent of the dryback and if there shall be any immediate or foreseeable impacts to fish and wildlife. This includes a reconnaissance survey of the dryback zone to establish an operational response.
- Before dewatering can begin, the following fish relocation elements shall be determined:
 - Staging Area: Identify staging areas in the dryback zone. Sites should be selected on the basis of proximity and access to the dryback zone and safe operation of the equipment
 - Relocation Sites: Priority shall be given to close proximity to the dryback zone within the same stream; if it is determined by a qualified on-site biologist that no suitable site within the stream is available, then “second choice” locations within the watershed shall be selected. In all cases, the closest site that is likely to result in a successful rescue shall be used
 - Transportation Routes: Transport routes for rescued fish species shall be determined in advance
 - Downstream vs. Upstream: Species rescued shall be transported downstream if possible and upstream only for short distances if downstream sites are not feasible.

- Disease Consideration: Fish shall not be moved upstream over substantial barriers or long distances upstream to guard against disease transmission.
- Salmonids: If salmonids are encountered during relocation, they should be moved upstream to a location of perennial running water or the best available habitat determined by a qualified biologist. Collection and transport methods shall be determined per site conditions. Methods shall also be selected to maximize efficiency of collection effort while minimizing handling and transport time and stress. Creek water from the site shall be used in all containers. Local transport of fish may be executed by various methods including:
 - Net transfer. Appropriate for short distances where rapid transfer is possible
 - Live car. Appropriate for temporary holding in stream and short distances where rapid transfer is required
 - Bucket. Appropriate for temporary holding and transport over short-medium distances. Holding time should be minimized if possible or supplemental aeration supplied.
 - *Aerated cooler*. Appropriate for temporary holding and transport of long distances. Temperature shall be maintained similar to source creek water, and if necessary fish shall be sorted by size to reduce risk of predation.
- Prioritization of species and collection/relocation sites to be prioritized as follows:
 - Endangered species
 - Threatened species
 - Species of special concern
 - Native fishes not under the above categories
 - Non-native fishes if appropriate
- Notify Resource Agencies: Identify a point person to contact at appropriate resource agencies (CDFW, NMFS, and USFWS). At least 24 hours in advance, notify appropriate resource agencies to communicate the details of the fish relocation and to confirm disposition instructions.
- Fish relocation shall be conducted in concurrence with the following conditions:
 - *Setup*: Upon arrival at the site, review the operational sequence and logistics and designate field assignments. Conduct a review of safety and operational methods.
 - *Live well Operation*: If necessary, set up live wells early in the operation in order to stabilize tank conditions.
- Use local “native” water to fill live wells if available and clean
- To lessen stress on fish, reduce or manage temperature in live wells to be compatible with the water temperatures in which the fish were encountered.
- Start the aeration system prior to placing fish into the live well to ensure that sufficient oxygen is present during the adjustment period. When salmonids are placed in the live

well, managed the live well to the extent possible so that the dissolved oxygen concentration shall be greater than 6 mg/l but less than saturation.

- *Electrofishing Operation:* Adjust the electrofishing unit settings to the conductivity and temperature of the water. Adjust setting for either varying width (wide to narrow) or varying frequency (high to low) to minimize possible fish injury when these settings elicit proper taxis for fish capture.
- Record the settings used and any incidental electrofishing mortalities in the field notebook. If electrofishing mortalities for salmonids and other species listed as threatened or endangered exceed 5% of the total capture, electrofishing activities shall be reevaluated and possibly terminated.
- Note fish other than salmonids that are mortalities from electrofishing activities shall be used as an indicator of possible injury or mortality rate to salmonids and other fish.
 - *General Collection Guidelines:* Execute collection of fish in a manner to minimize handling time and stress, yet maintain the safety of personnel.
- Use multiple buckets and/or live cars to reduce crowding during collection and transfer.
- Pre-sort fish as needed for transport.
- Equip buckets that hold salmonids with portable aerators until subsequent transfer to a live well.
 - *Transport:* Transport fish to minimize holding time and alternately sequenced in tandem with ongoing collection activities
- Continue normal live well operations during transport.
 - *Records and Data:* Inventory fish and record other pertinent data, including species, numbers of each species, disposition, and other data such as fork length. If conditions preclude a complete inventory, at a minimum, document species present, their disposition, and an estimate of their abundance.
- Record information on ambient site conditions (available habitat/water quality), including photo documentation at collection and release sites, as appropriate and other information on collection, handling, and transport.
- At completion, conduct an assessment of the fish relocation to identify lessons learned, estimate the number of individual fish and fish species moved and determine the mortality rate. Report shall be forward to the appropriate resource agencies and interested parties.

Finding

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure 3.E-1 is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the Project construction documents (plans and specifications) to ensure its implementation. With the preparation and implementation of a capture and relocation plan with specific components to minimize impacts on steelhead, salmon, and lamprey, should any be present during

electrofishing, capture and relocation, the risk of take of special status species would be reduced to a **less than significant level with mitigation**.

VIII.B.4 Cultural Resources

Impact 3.F-1: The Project would cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5, human remains, including those interred outside of formal cemeteries, or a tribal cultural resource as defined in PRC Section 21074 (during construction).

Impact (Final EIR Section 3.F, Page 3.F-14)

A records search, survey, and previous disturbance at the site, indicate there are known archaeological resources, and tribal cultural resources, in the vicinity of the Area of Potential Effect (APE). Given the proximity of the connection pipeline to known prehistoric sites with human remains (CA-SCL-132402 and CA-SCL-182), there is a heightened potential to uncover cultural materials or human remains during Project implementation. Impacts to CA-SCL-132402 and CA-SCL-182 during Project implementation would be a **significant impact**. Despite the low potential throughout the rest of the Project area, the inadvertent discovery of archaeological resources (including those determined to be tribal cultural resources) or human remains cannot be entirely discounted. The inadvertent discovery of resources would be a **significant impact**.

Mitigation (Final EIR Section 3.F, Page 3.F-15)

The implementation of **Mitigation Measure 3.F-1a (Preconstruction Training and Cultural Resources Monitoring)** would ensure immediate compliance with cultural resources discoveries and regulatory requirements for construction activities by requiring personnel to stop work and report finds. This mitigation measure requires, prior to construction, a qualified archaeologist prepare a cultural resource monitoring plan. Valley Water is required to review and approve the plan, which shall include a requirement for monitoring of construction activities within 200 feet of archaeological sites CA-SCL-402 and CA-SCL-182 by a qualified archaeologist and, if reasonably available, a Native American representative. The plan is required to include the following components:

- A training program for all construction and field workers involved in site disturbance that would be completed prior to the commencement of construction activities and that would train site workers in the identification of cultural resources, and actions to be undertaken in the event that cultural resources are discovered;
- The identification of person(s) responsible for conducting monitoring activities, including Native American monitors;
- The identification of person(s) responsible for overseeing and directing the monitors;
- Monitoring protocols and procedures, including the ability of the monitor to stop work within 100 feet of the find, and the required format and content of monitoring reports;
- The schedule for submittal of monitoring reports and identification of person(s) responsible for review and approval of monitoring reports;
- A protocol for notifications in the event cultural resources are encountered, as well as methods of avoiding or minimizing impacts to the encountered resources (e.g.,

collection, identification, curation) consistent with CEQA Guidelines Section 15126.4(b)(3);

- Methods to ensure the security of cultural resources sites; and
- A protocol for notifying local authorities (i.e. Sheriff, Police) should site looting and other illegal activities occur during construction.

During the course of the construction monitoring, the archaeologist may adjust the frequency, from continuous to intermittent, of the monitoring based on the conditions and professional judgment regarding the potential to impact resources.

Implementation of **Mitigation Measure 3.F-1b (Accidental Discovery of Archaeological Artifacts, Tribal Cultural Resources or Burial Remains)**, would ensure that avoidance or preservation in place is first considered, and if not feasible, resources are documented, evaluated, and if required, treated appropriately in accordance with PRC Section 21083.2 and CEQA Guidelines Section 15126.4. Mitigation Measure 3.F-1b requires, if historical or unique archaeological artifacts (including potential tribal resources) are accidentally discovered during construction, Valley Water to restrict work in affected areas until proper protocols are met. Work at the location of the find will halt immediately within 30 feet of the find. A “no work” zone shall be established utilizing appropriate flagging to delineate the boundary of this zone. A Consulting Archaeologist will visit the discovery site as soon as practicable for identification and evaluation pursuant to Section 21083.2 of the Public Resources Code and Section 15126.4 of the California Code of Regulations. If the archaeologist determines that the artifact is not significant, construction may resume. If the archaeologist determines that the artifact is significant, the archaeologist will determine if the artifact can be avoided and, if so, will detail avoidance procedures. If the artifact cannot be avoided, the archaeologist will develop within 48 hours an Action Plan which will include provisions to minimize impacts and, if required, a Data Recovery Plan for recovery of artifacts in accordance with Public Resources Code Section 21083.2 and Section 15126.4 of the CEQA Guidelines. Impacts to tribal cultural resources shall be assessed in consultation with culturally-affiliated Native American tribes.

In addition, if human remains are identified no further excavation or disturbance would occur until authorized. If burial finds are accidentally discovered during construction, work in affected areas will be restricted or stopped until proper protocols are met. Upon discovering any burial site as evidenced by human skeletal remains, the County Coroner will be immediately notified and the field crew supervisor shall take immediate steps to secure and protect such remains from vandalism during periods when work crews are absent. No further excavation or disturbance within 30 feet of the site or any nearby area reasonably suspected to overlie adjacent remains may be made except as authorized by the County Coroner, California Native American Heritage Commission, and/or the County Coordinator of Indian Affairs.

Finding

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures 3.F-1a and 3.F-1b are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. These measures include the requirement that a cultural resource monitoring plan be prepared and implemented; that Valley Water is required to review and approve the plan, which includes the monitoring of construction activities within 200 feet of archaeological sites CA-SCL-402 and CA-SCL-182 by a qualified archaeologist and, if

reasonably available, a Native American representative; and that if burial finds are accidentally discovered during construction, work in affected areas will be restricted or stopped until proper protocols are met. With these measures in place, impacts on archaeological resources, Tribal Cultural Resources, or human remains during construction, would therefore be reduced to **less than significant with mitigation**.

VIII.B.5 Energy

Impact 3.G-1: The Project would result in wasteful, inefficient, or unnecessary consumption of energy resources (during construction).

Impact (Final EIR Section 3.G, Page 3.G-7)

The total average annual fuel use during the construction period would be approximately 7,000 gallons per year of gasoline and approximately 233,500 gallons per year of diesel fuel. In addition, Valley Water may ship contaminated lake bed sediment via railroad from Port of Oakland to an approved disposal site in Utah, and the associated amount of locomotive diesel fuel that would be consumed has been estimated to be approximately 65,000 gallons, approximately 4,000 gallons of which would be consumed within the Bay Area.

While the overall fuel use requirements would not be significant relative to the overall sales of fuels in the County, construction activities could result in wasteful or inefficient use of energy fuels. The potential for construction activities to use large amounts of fuel or energy in a wasteful or inefficient manner would be a **significant impact**.

Mitigation (Final EIR Section 3.C, Page 3.C-20)

Implementation of **Mitigation Measure 3.C-1b (BAAQMD Basic Construction Mitigation Measures)** would require construction equipment to be well maintained and properly tuned and would limit equipment and vehicle idling.

Finding

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure 3.C-1b is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the Project construction documents (plans and specifications) to ensure its implementation. With this measure in place, construction activities would be conducted in a fuel-efficient manner including compliance with the BAAQMD Basic Construction Mitigation Measures that include, but are not limited to, limiting vehicle idling times, covering haul trucks, and maintaining construction equipment; therefore, this impact would be reduced to **less than significant with mitigation**.

VIII.B.6 Hydrology and Water Quality

Impact 3.K-1: The Project would violate water quality standards or waste discharge requirements, conflict with or obstruct implementation of the Basin Plan, or otherwise substantially degrade surface or groundwater quality (during construction).

Impact (Final EIR Section 3.K, Page 3.K-20)

During the construction process, Almaden Lake would be drained to allow access to the lake bottom. Draining of the lake would require discharge of lake waters into downstream areas of Alamitos Creek and the Guadalupe River. Discharge of lake waters into Alamitos Creek is generally not anticipated to cause a reduction in water quality downstream, in comparison to existing conditions, because lake waters are already discharged downstream under existing conditions. However, when the lake is drawn down to near bottom, potential mixing of waters with bottom sediments could result in the release of increased sediment loads. Lake bottom sediments are known to contain high concentrations of mercury. In addition, after drawdown of the lake is complete, groundwater dewatering may be required to establish and maintain a dry lake bed to provide a working surface for the construction equipment which could release sediment, mercury, and other potential water quality pollutants to downstream areas. Releases of water containing elevated concentrations of sediment could therefore, also contain elevated mercury levels, resulting in downstream water quality degradation; this is considered a **significant impact**.

Mitigation (Final EIR Section 3.K, Page 3.K-26)

Implementation of **Mitigation Measure 3.K-1 (Monitor and Manage the Quality of Lake Discharges to Creek)** would minimize downstream water quality degradation by ensuring that sediment and/or mercury-laden sediment is not discharged to surface waters. Specifically, Mitigation Measure 3.K-1 (Monitor and Manage the Quality of Lake Discharges to Creek) requires Valley Water and/or its contractor(s) to monitor the quality of water discharged during drawdown of Almaden Lake during Project construction. Initially, water quality shall be tested for turbidity daily during discharge, or as required under the RWQCB Section 401 Water Quality Certification and/or Waste Discharge Permit obtained for the Project. When the lake reaches 10% of its capacity volume, Valley Water shall monitor water quality at least hourly until direct discharge to Alamitos Creek ceases. Monitoring shall be completed in the field using portable equipment. If turbidity concentrations in excess of 500 NTU are detected or as indicated in the Permit, waters shall be treated by filtration (filter or media filtration), settlement, or other non-chemical means to remove sediment prior to discharge. Removed sediment shall be tested for mercury concentration and disposed of in accordance with applicable requirements / regulations. If a dewatering permit from the RWQCB is required, water quality monitoring requirements identified here may overlap with permit requirements. In such a case, monitoring requirements under this mitigation measure could be reduced only to avoid duplicative sampling and analysis.

Finding

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure 3.K-1 is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the Project construction documents (plans and specifications) to ensure its implementation. With this measure in place, the potential mixing of lake waters with bottom sediments and the potential release of increased sediment loads would be reduced; the discharge of lake water to the creek will be tested and if necessary treated to ensure sediment laden lake water to surface waters is

minimized, such that the Project is in compliance with water quality standards, does not substantially degrade surface waters, and does not conflict with implementation of the Basin plan. The impact would therefore be reduced to **less than significant with mitigation**.

Impact 3.K-3: The Project would substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which could:

(i) Result in substantial erosion or siltation offsite;

(ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or offsite;

(iii) Create or contribute runoff water which would exceed the capacity of existing planned stormwater drainage systems or provide substantial additional sources of polluted runoff;

(iv) Impede or redirect flood flows (during construction).

Impact (Final EIR Section 3.K, Page 3.K-27)

Project construction would result in the temporary closure and draining of Almaden Lake. The lake would be separated from the channel using a series of sheet piles. Creek flows would then be routed behind the sheet piles, allowing draining of Almaden Lake, while enabling creek baseflow and stormwater to pass downstream. In this manner, creek flows would be separated from the remainder of Almaden Lake. Unless properly designed, the sheet piles could result in a temporary constriction of flows of the creek. If a major storm event were to occur during the Project construction period, the temporary conveyance could be insufficient to pass flows downstream, which could result in accidental release of flows into the Almaden Lake work area, creating potential hazards to Project workers and construction equipment. This would be a **significant impact**.

Mitigation (Final EIR Section 3.K, Page 3.K-30)

Implementation of **Mitigation Measure 3.K-3 (Final Siting of Sheet Pile System)** would ensure that temporary construction period creek water management systems would allow sufficient conveyance capacity to pass major storm events. Mitigation Measure 3.K-3 (Final Siting of Sheet Pile System) requires, prior to the initiation of construction, Valley Water and/or its contractors to determine the final siting of the temporary sheet pile system based on a hydrologic assessment during design. The design shall site all proposed sheet piles needed for Project construction to ensure that sufficient capacity would be available in the temporary creek system to convey up to a 100-year storm event (i.e., approximately 8,250 cfs).

Findings

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure 3.K-3 is feasible and will adopt them as described in the Final EIR. This measure will be incorporated into the Project construction documents (plans and specifications) to ensure implementation. With this measure in place, temporary construction period creek water management systems would be designed to allow sufficient conveyance capacity to pass during major storm events

and impacts on potential flood risk as a result of Project construction would therefore be reduced to **less than significant with mitigation**.

VIII.B.7 Noise

Impact 3.L-1: The Project would 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 (during construction).

Impact (Final EIR Section 3.L, Page 3.L-12)

The City of San Jose does not have quantitative criteria for assessing construction noise impacts at neighboring noise-sensitive uses. The City's General Plan Policy EC-1.7, establishes that residential uses within 500 feet of construction, and commercial uses within 200 feet of construction, may be adversely affected by construction noise. Existing residences on the northern, western, and eastern sides of the Project site would be located within 500 feet of construction activities; therefore, these residences could be significantly affected by Project-related construction noise, and this would represent a **significant impact**.

Mitigation (Final EIR Section 3.L, Page 3.L-17)

Implementation of **Mitigation Measure 3.L-1 (Construction Noise Logistics Plan)** would ensure that the Project would be consistent with the City's applicable standards, ordinances, and the General Plan. Mitigation Measure 3.L-1 (Construction Noise Logistics Plan) requires Valley Water and/or its contractors to develop and adhere to a Construction Noise Logistics Plan, in accordance with General Plan Policy EC-1.7. The Plan will specify hours of construction, noise and vibration minimization measures (e.g., use of exhaust mufflers, use of and hydraulically or electrically powered equipment, and use of noise shields, blankets, and/or enclosures), provide for / require posting and notification of residences within 500 feet of the construction site of construction schedules, and designate a noise disturbance coordinator to respond to neighborhood complaints during construction. The noise disturbance coordinator shall ensure that the Plan is implemented and shall be available to respond to complaints during all construction work hours. All construction activities conducted within 500 feet of a residence shall be completed between the hours of 7:00 a.m. and 7:00 p.m., on weekdays; or Saturdays if permitted by the City. The Plan shall include a provision restricting all Project-related construction traffic to the site via the Guadalupe River Trail north of Almaden Lake Village to worker vehicles only (i.e., no haul truck access) and a provision restricting hourly truck trips along Winfield Boulevard, south of Coleman Road, to no more than 70 trips per hour.

Findings

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure 3.L-1 is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the Project construction documents (plans and specifications) to ensure its implementation. With the development and implementation of a Noise Logistic Plan, the identification of specific hours of construction, noise and vibration minimization measures, provisions requiring the posting and notification of residences within 500 feet of the construction site of construction schedules, and the designation of a noise disturbance coordinator to respond to neighborhood complaints during construction, the Project would be consistent with Policy EC-1.7 and other applicable

local standards, and this impact would therefore be reduced to **less than significant with mitigation**.

VIII.C SIGNIFICANT IMPACTS THAT CANNOT BE MITIGATED TO LESS THAN SIGNIFICANT LEVELS

VIII.C.1 Aesthetics

Impact 3.A-3: The proposed Project would substantially degrade the existing visual character or quality of public views of the site and its surroundings and would not conflict with applicable zoning and other regulations governing scenic quality (during construction).

Impact (Final EIR Section 3.A, Page 3.A-28)

The Project would result in temporary, construction-related impacts on the visual character of the surrounding areas. Direct public views of the Park portions of the Project site, including staging areas within the Park would be available from adjacent public roadways and sidewalks, as well as the Almaden Lake Village residential area to the east. Construction activities at the Park would continue for the entire construction period, which would exceed 2 years in duration. Project construction would include temporary erection of a fence intended to minimize views of construction activities from surrounding areas. The fence would be located on the border of the construction work area but would not be able to fully block all views of construction. Once construction around the lake is completed, the restored channel and new levee would be planted with native vegetation and other graded areas would be seeded with grasses. The grasses would establish in a few months, but restoration plantings could take many years to become fully established. In the meantime, the vista of the lake from the Park, which is the main visual element in the fore and middle ground, would be diminished compared to existing conditions. Since construction would last more than one year, and the visual character of the lake would not be fully restored until after restoration plantings are established, the short-term impact to visual character during construction would be **significant**.

Mitigation (Final EIR Section 3.A, Page 3.A-30)

Valley Water would have construction fencing installed around the Project area to minimize the visual impact and plant disturbed areas as soon as feasible given the construction schedule and seasonal requirements of planting, but construction would last more than one year, and the visual character of the lake and the quality of public views of the site would not be fully restored until after restoration plantings are established. Since fast-tracking the growth of restoration planting, or eliminating the opportunity for public viewing of the lake are not practical or feasible solutions, there are no additional feasible measures to further minimize the short-term, temporary, visual impact on views during construction and immediately after.

Findings

Specific economic, legal, social, technological, or other considerations make infeasible the provision of mitigation measure or project alternatives identified in the final EIR. The Board finds that the vista of the lake from the Park would be diminished during construction compared to existing conditions, construction would last more than one year, the visual character of the lake would not be fully restored until after restoration plantings are established, and additional

actions or mitigation of construction on Impact 3.A-3 is infeasible because fast-tracking the growth of restoration planting, or eliminating the opportunity for public viewing of the lake are not practical or feasible solutions. This impact would therefore be **significant and unavoidable**.

Impact 5.A: Cumulative impacts on scenic resources (vistas, roadways, and designated scenic areas), scenic resources, or the visual character of public views of the Project area and its vicinity, or substantially increase light or glare in the Project area and its vicinity.

Impact and Project Contribution (Final EIR Section 5.C, Page 5-10)

Cumulative aesthetics impacts could occur if the Project, and activities associated with other projects considered in the cumulative scenario, would collectively result in substantial adverse effects. Temporary cumulative aesthetics impacts could occur if the construction schedules of the other Projects' considered in the cumulative scenario overlap with the Project.

All the projects located or potentially located within 0.5 mile of the Project site would have construction and/or implementation schedules that would overlap with the Project. However, none of these cumulative scenario projects would include substantial changes to aesthetics conditions in the Project vicinity. Therefore, the Projects considered in the cumulative scenario would not result in a significant cumulative impact, during construction or operation. However, the Project's contribution to significant cumulative aesthetic resources impacts during construction is a cumulatively considerable impact that is found to be **significant**.

Mitigation (Final EIR Section 3.A, Page 3.A-30)

Valley Water would install construction fencing around the Project area to minimize the visual impact and plant disturbed areas as soon as feasible given the construction schedule and seasonal requirements of planting. However, there are no feasible measures to minimize the visual impact during construction and immediately after because fast-tracking the growth of restoration planting, or eliminating the opportunity for public viewing of the lake are not practical solutions.

Findings

Specific economic, legal, social, technological, or other considerations make infeasible the provision of mitigation measure or project alternatives identified in the final EIR. The Board finds that the Project's contribution to significant cumulative aesthetic resources impacts during construction is a cumulatively considerable impact that would be **significant and unavoidable**.

VIII.D CUMULATIVELY CONSIDERABLE CONTRIBUTIONS TO CUMULATIVE IMPACTS¹

VIII.D.1 Air Quality

Impact 5.C: Cumulative emissions of air pollutants.

Impact and Project Contribution (Final EIR Section 5.C, Page 5-12)

The proposed Project and other projects in the region, would result in emissions of criteria pollutants, which would be a significant impact. As concluded under Impact 3.C-2, the impact from construction-related criteria pollutant emissions would be less than significant, with the exception of nitrogen oxides (NO_x). In addition, operation of the Project would result in negligible long-term criteria pollutant emissions from occasional worker vehicle trips to the Project site. Therefore, the Project would result in a cumulatively considerable net increase in NO_x pre-mitigation, resulting in a **significant impact**.

Mitigation (Final EIR Section 3.C, Page 3.C-20)

Valley Water will implement **Mitigation Measures 3.C-1a (U.S. EPA Tier 4 Engines)** and **Mitigation Measure 3.C-1b (BAAQMD Basic Construction Mitigation Measures)**.

Finding

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures 3.C-1a and 3.C-1b are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the project construction documents (plans and specifications) to ensure their implementation. With these measure in place, Project construction emissions of NO_x is estimated to be reduced to 47.20 pounds per day, below the BAAQMD threshold. Therefore, the cumulative impacts from construction-related NO_x on regional air quality and the impacts of TAC emissions on sensitive receptors would be reduced to less than cumulatively considerable, and the impact would be **less than significant with mitigation**.

VIII.D.2 Biological Resources

Impact 5.D: Cumulative loss of sensitive biological resources during construction and operations.

Impact and Project Contribution (Final EIR Section 5.C, Page 5-14)

The Project could adversely affect special-status birds or nesting migratory birds and raptors in the Project area, including tricolored blackbird, nesting colonies of herons and egrets, Cooper's hawk, and other nesting migratory birds and raptors, as well as roosting bats. Projects considered in the cumulative scenario could also have the potential to affect these species, especially those projects that would directly affect waterways and riparian areas within the Guadalupe Watershed. Each of these projects would be required to complete CEQA analysis similar to that completed for the Project, but it unknown whether the CEQA process would identify and mitigate potential raptor

¹ In addition to cumulative impacts on aesthetics, which are discussed in Section VIII.c.1.

and migratory bird related impacts associated with those projects. Impacts on nesting birds and bats would be cumulatively considerable, a **significant impact**.

Also, the Project's pre-mitigation impacts on trees protected by local policies or ordinances are significant, and are cumulatively considerable and a **significant impact** because other cumulative scenario projects may have similar impacts on protected trees.

Mitigation (Final EIR Section 3.D, Page 3.D-28 and Page 3.D-40)

Valley Water will implement **Mitigation Measure 3.D-1a (Nesting Bird Protection Measures)**, **Mitigation Measure 3.D-1b (Protective Measures for Bats)**, and **Mitigation Measure 3.D-6 (Tree Protection Measures)**.

Finding

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures 3.D-1a and 3.D-1b are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the project construction documents (plans and specifications) to ensure their implementation. With these measure in place, the direct impacts from the Project on nesting birds and roosting bats, and their habitats would be avoided, and considered together with past, present, and reasonably foreseeable future projects, impacts would be reduced to a **less than significant with mitigation**.

The Board also finds that Mitigation Measure 3.D-6 is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the Project construction documents (plans and specifications) to ensure its implementation. With this mitigation in place, the avoidance of native trees and other trees protected by City code, and implementation of specific tree protection measures and replacement requirements of the City would be met, and conflicts with City of San José tree codes, plans, and guidance related to trees would be reduced **to less than significant with mitigation**.

VIII.D.3 Fisheries Resources

Impact 5.E: Cumulative loss of special-status native fish species and their aquatic habitat during construction and operations.

Impact and Project Contribution (Final EIR Section 5.C, Page 5-16)

Under existing conditions, Almaden Lake represents a substantial barrier to fish migration, caused by entrainment and predation of migrating native fish within the lake. Project construction could temporarily interfere with fish migration during the non-migratory season. Other projects in the watershed that would have the potential to interfere with fish migration and that could be active during the same construction period may implement fish management measures to ensure passage during migration seasons, in compliance with Endangered Species Act and CEQA mitigation requirements, but because such measures are currently unknown, conservatively, projects considered in the cumulative scenario would combine to result in a cumulatively significant impact. The Project's contribution to this impact would be cumulatively considerable, a **significant impact**.

Mitigation (Final EIR Section 3.E, Page 3.E-20)

Valley Water will implement **Mitigation Measure 3.E-1a (Native Fish Capture and Relocation)**.

Findings

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure 3.E-1a is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the project construction documents (plans and specifications) to ensure its implementation. With this measure in place, including the preparation and implementation of a capture and relocation plan with specific components to minimize impacts on steelhead, salmon, and lamprey, should any be present during electrofishing, capture and relocation, the risk of take of special status species would be reduced, the Project would not make a cumulatively considerable contribution to special-status native fish species and their aquatic habitat, and the impact would be **less than significant with mitigation**.

VIII.D.4 Cultural Resources and Tribal Cultural Resources

Impact 5.F: Cumulative increase in impacts on archaeological, historical resources, and tribal cultural resources.

Impact and Project Contribution (Final EIR Section 5.C, Page 5-18)

The Project has the potential for discovery of unknown historical resources and unknown archaeological resources although no archaeological sites were identified by records search or found during surface surveys. This impact would be significant. Implementation of Mitigation Measure 3.F-1b, Accidental Discovery of Archaeological Artifacts, Tribal Cultural Resources, or Burial Remains, would minimize potential impacts on unknown archaeological resources and human remains for all proposed Project elements. For those projects considered in the cumulative scenario, mitigation and avoidance strategies and management practices might be employed, but are currently unknown. Therefore, cumulative impacts would be significant and the Project's contribution would be cumulatively considerable, a **significant impact**.

Mitigation (Final EIR Section 3.F, Page 3.F-15)

Valley Water will implement **Mitigation Measure 3.F-1a (Preconstruction Training and Cultural Resource Monitoring)** and **Mitigation Measure 3.F-1b (Accidental Discovery of Archaeological Artifacts or Burial Remains)**.

Findings

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure 3.F-1b is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the project construction documents (plans and specifications) to ensure its implementation. These measures include the requirement that a cultural resource monitoring plan be prepared and implemented; that Valley Water is required to review and approve the plan, which includes the monitoring of construction activities within 200 feet of archaeological sites CA-SCL-402 and CA-SCL-182 by a qualified archaeologist and, if reasonably available, a Native American representative, and that if burial finds are accidentally discovered during construction, work in

affected areas will be restricted or stopped until proper protocols are met. With these measures in place, the Project would not make a cumulatively considerable contribution to impacts on archaeological resources, Tribal Cultural Resources, or human remains during construction, and the impact would be **less than significant with mitigation**.

VIII.D.5 Energy

Impact 5.G: Cumulative environmental impacts due to wasteful, inefficient, or unnecessary consumption of energy resources.

Impact and Project Contribution (Final EIR Section 5.C, Page 5-19)

Construction of the Project in combination with the other projects in the region, would require the operation of construction equipment during excavation, grading, and materials hauling, and could contribute to the regional use of petroleum-based fuels, or fossil fuels. Therefore, cumulative scenario effects on energy resources related to fuel consumption during construction would be significant, and the Project's contribution would be cumulatively considerable, a **significant impact**.

Mitigation (Final EIR Section 3.C, Page 3.C-20)

Valley Water will implement **Mitigation Measure 3.C-1b (BAAQMD Basic Construction Mitigation Measures)**.

Findings

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure 3.C-1b is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the project construction documents (plans and specifications) to ensure its implementation. With this measure in place, including compliance with the BAAQMD Basic Construction Mitigation Measures that include, but are not limited to, limiting vehicle idling times, covering haul trucks, and maintaining construction equipment, the Project would not make a cumulatively considerable contribution to the wasteful, inefficient, or unnecessary consumption of energy resources, and the impact would be **less than significant with mitigation**.

VIII.D.6 Hydrology and Water Quality

Impact 5.K: Cumulative impacts related to the degradation of surface or groundwater quality, conflict with the Basin Plan, depletion of groundwater resources, alteration of drainage patterns or addition of impervious surfaces in a manner which would cause erosion or siltation, substantially increase runoff, cause flooding, exceed stormwater systems, or impede or redirect flood flows.

Impact and Project Contribution (Final EIR Section 5.C, Page 5-24)

As part of the construction process, Almaden Lake would be drained to allow access to the lake bottom. When the lake is drawn down to near bottom, potential mixing of waters with bottom sediments could result in the release of increased sediment loads. Lake bottom sediments are known to contain high concentrations of mercury. In addition, after drawdown of the lake is complete, groundwater dewatering may be required to establish and maintain a dry lake bed to

provide a working surface for the construction equipment which could release sediment, mercury, and other potential water quality pollutants to downstream areas. Releases of water containing elevated concentrations of sediment containing elevated mercury levels, in combination with historic mining activities in the watershed, could result in a cumulatively considerable contribution related to downstream water quality degradation, a **significant impact**.

Mitigation (Final EIR Section 3.K, Page 3.K-26)

Valley Water will implement **Mitigation Measure 3.K-1 (Monitor and Manage the Quality of Lake Discharges to Creek)**.

Findings

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure 3.K-1 is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the project construction documents (plans and specifications) to ensure its implementation. With this measure in place, the potential mixing of lake waters with bottom sediments and the potential release of increased sediment loads would be reduced; the discharge of lake water to the creek will be tested and if necessary treated to ensure sediment laden lake water to surface waters is minimized, such that the Project is in compliance with water quality standards, does not substantially degrade surface waters, and does not conflict with implementation of the Basin plan, and therefore, the Project would not make a cumulatively considerable contribution to the degradation of downstream water quality. The impact would therefore be reduced to **less than significant with mitigation**.

VIII.D.7 Noise

Impact 5.L: Cumulative increases in noise and vibration in the Project area.

Impact and Project Contribution (Final EIR Section 5.L, Page 5-27)

Project construction activities would contribute to the noise environment in the Project area. Existing residences on the northern, western, and eastern sides of the Project site are located within 500 feet of the proposed construction activities, and therefore, have the potential to be adversely affected by Project construction. These residences could be significantly impacted by Project-related construction traffic noise. In addition, because construction of the Project would exceed the applicable noise threshold criteria associated with off-site traffic, this construction impact would be considered significant, and the Project's impacts could result in a cumulatively considerable contribution related to noise impacts, a **significant impact**.

Mitigation (Final EIR Section 3.L, Page 3.L-17)

Valley Water will implement **Mitigation Measure 3.L-1 (Construction Noise Logistics Plan)**.

Findings

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure 3.L-1 is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the project construction documents (plans and specifications) to ensure its implementation. With

this measure in place, including: the identification of specific hours of construction; noise and vibration minimization measures; provisions requiring the posting and notification of residences within 500 feet of the construction site of construction schedules, and the designation of a noise disturbance coordinator to respond to neighborhood complaints during construction, the Project would be consistent with Policy EC-1.7 and other applicable local standards. Therefore, the Project would not make a cumulatively considerable contribution to the cumulative increases in noise in the Project area, and the impact would be **less than significant with mitigation**.

IX. ALTERNATIVES TO PROJECT AS PROPOSED

CEQA requires an EIR to describe a range of reasonable alternatives to the project, or project location, that would feasibly attain most of the project's basic objectives, but would avoid or substantially lessen the project's significant environmental effects. (CEQA Guidelines Sec.15126.6(a).) The "range of alternatives" is governed by the "rule of reason," which requires the EIR to describe and consider only those alternatives necessary to permit informed public participation, and an informed and reasoned choice by the decision-making body (CEQA Guidelines Sec.15126.6(a),(f)). Also, CEQA Guidelines Sec 15126.6(e)(1) requires an EIR to describe and analyze a no project alternative "to allow decision makers to compare the impacts of approving the project with the impacts of not approving the project."

The Board finds the following with regard to the alternatives analyzed in the EIR, as discussed in more detail below.

- The EIR describes a reasonable range of alternatives to the Project as proposed.
- The Board has evaluated the comparative merits of the alternatives and rejected them in favor of the proposed Project.

IX.A ALTERNATIVES ANALYZED IN EIR

CEQA Guidelines, Section 15126.6(a) requires EIRs to evaluate a reasonable range of alternatives to the proposed project, focusing on alternatives that appear to be feasible, would meet the project objectives, and would avoid or substantially lessen at least one of the proposed project's significant environmental effects. EIRs must also analyze the No Project Alternative pursuant to CEQA Guidelines Section 15126.6(e) to provide decision-makers the information necessary to compare the relative impacts of approving the Project and not approving the Project.

The Draft EIR analyzed three alternatives in addition to the No Project Alternative in Chapter 4, Alternatives, which sets forth the objectives of the Project, summarizes the Project's significant environmental impacts, describes the range of alternatives considered, compares the impacts of the alternatives evaluated to the impacts of the Project, and discusses the alternatives considered but eliminated from further analysis. **Table 3** provides a brief description of these alternatives and highlights how they differ from the Project.

**TABLE 3
CEQA ALTERNATIVES**

Alternative	How Does the Alternative Differ from the Project?
<p>Alternative 1: No Project (Final EIR Section 4.B.4, Page 4-13) – Valley Water would not restore the channel of Alamos Creek, re-contour and cap the Almaden Lake floor, connect the lake to a water source, expand open space and island areas in Almaden Lake Park, and install riparian vegetation. The lake and Park would continue to operate as they currently do under existing conditions.</p>	<ul style="list-style-type: none"> • Valley Water would not construct a levee creating a geomorphically stable, self-sustaining channel for Alamos Creek in addition to access ramps into the creek. • Valley Water would not separate the lake area from the creek or construct a new boat launch ramp, and boat house. The lake bed would remain unnaturally varied. Elevated mercury levels in the water and fish tissue would continue, as well as high concentrations of coliform bacteria and blue-green algae. • Valley Water would not expand the Park's open space area into the existing west beach and lake areas. • Valley Water would not expand the existing island and create an additional island. • Valley Water would not plant and maintain riparian vegetation around the lake, along the creek, and on the islands. • Valley Water would not construct the Almaden Lake Source Water Connection or the Alamos Percolation Pond/Los Capitancillos Percolation Ponds to maintain water levels in the restored lake.

TABLE 3 (Continued)
CEQA ALTERNATIVES

Alternative	How Does the Alternative Differ from the Project?
<p>Alternative 2: Creek with East and West Lakes (Final EIR Section 4.B.4, Page 4-14) – Valley Water would separate Alamos Creek from Almaden Lake by constructing two levees, re-contour and cap the Almaden Lake bed, and construct two lakes, one on either side of the creek.</p>	<ul style="list-style-type: none"> Valley Water would not build a new park area on the west side of the creek. Instead, a small 5-acre lake would be included west of the creek (West Lake). Construction of this alternative would use approximately 70,000 cubic yards less fill material, and have an approximately 4-month shorter construction period. Alamos Creek would be restored in an approximately 5-acre, 100-foot wide creek channel. A sediment catchment area would be constructed at the upstream end of the creek. The restored creek would have riparian vegetation planted along both creek banks. Two levees would be constructed to separate the creek from Almaden Lake, and two lakes would exist on either side of the creek. The East Lake would be approximately 22 acres, and the West Lake would be approximately 5 acres. Separate inlets and outlets for imported water would be created in the two lakes. A single pipeline would carry imported water from the Almaden Valley Pipeline. This pipeline would split just south of the lakes to supply water to the two separate lakes. Approximately 80 percent of the imported water would flow into the larger East Lake and approximately 20 percent would flow into the smaller West Lake. As part of the flow-through water management system, each lake would have its own separate outlet structure at the north end of the lakes. Two pump stations and two outlet pipelines would be constructed. The two outlet pipelines from the lakes would converge just north of the lakes into a single pipeline conveying overflow water to the Alamos Percolation Pond/Los Capitancillos Percolation Ponds for groundwater recharge. Of the 4,350 AFY of potentially diverted overflow water, approximately 80 percent would flow from the larger East Lake and approximately 20 percent would flow from the smaller West Lake. The capacity of the West Lake pump station would be smaller than the East Lake pump station. Up to five SolarBees would circulate water in the East Lake, and up to two SolarBees would circulate water in the West Lake.
<p>Alternative 3: Creek with East and West Open Space (Final EIR Section 4.B.4, Page 4-21) – Valley Water would separate Alamos Creek from Almaden Lake. The remaining Almaden Lake area would be filled to create new open space areas on either side of the creek.</p>	<ul style="list-style-type: none"> Valley Water would separate Alamos Creek from Almaden Lake and fill the remaining lake area creating new open space areas to the east and west of the creek. Construction of this alternative would use approximately 100,000 cubic yards more fill material than the Project. Operation of Alternative 3 would not require a pump station as there would be no lake. Eliminates lake feature and recreational opportunities for pedal boating at Park. Alamos Creek would be restored in an approximately 5-acre, 100-foot wide creek channel. Two creek banks would be constructed to restore the creek, and remaining lake areas on either side of the creek would be filled to ground level with clean fill. The east open space would be approximately 22 acres, and the west open space would be approximately 5 acres. A sediment catchment area would be constructed at the upstream end of the creek. The restored creek would have riparian vegetation planted along both creek banks. Clean fill in the former lake area would cover existing mercury-laden sediment. New open space areas would be planted with grass and trees and may be dedicated to the City for potential recreational development. A maintenance road along the east creek embankment would provide maintenance access to the creek.

IX.B FINDINGS REGARDING THE ALTERNATIVES

Alternative 1 (Final EIR Section 4.B.4, Page 4-14) would eliminate the short-term construction effects relative to the Project. However, under Alternative 1 the existing water quality issues would continue, including mercury contamination (which is in exceedance of RWQCB water quality standards), low dissolved oxygen, coliform bacteria, and algal blooms. Numeric targets for fish tissue mercury concentrations would continue to be in exceedance of mercury thresholds. Also, existing non-physical barriers to anadromous fish migration would continue.

Alternative 1 was rejected because it would not meet any of the project objectives. The current high levels of mercury and coliform bacteria, low dissolved oxygen concentrations, and blue-green algae blooms would continue and further prohibit uses of the lake, such as for swimming. Guadalupe River, Almaden Lake, and Alamitos Creek would continue to be poor habitat for fish passage to upstream spawning habitat in the Alamitos Creek watershed.

Alternative 2 (Final EIR Section 4.B.4, Page 4-15) would reduce the short-term construction effects relative to the Project by utilizing approximately 70,000 cubic yards less fill material, resulting in an approximately 4-month shorter construction period than the Project. Construction-related activities including operation of construction equipment, worker trips, and hauling trips would be reduced, resulting in reduced criteria air pollutant emissions and exposure of sensitive receptors to toxic air contaminants, compared to the Project. Construction activities such as earthwork, fugitive dust, noise, vibrations, visual disturbance, and human activity would be somewhat lessened under this alternative due to a shorter construction period, which would be somewhat less disruptive to special-status birds, nesting migratory birds and raptors, and bats than the Project. The shorter construction period would also result in less potential for construction activities to result in wasteful or inefficient use of energy resources, reduced duration of heavy construction equipment operating in the Project area with the potential for accidental release of water quality pollutants, and reduced construction noise.

Alternative 2 would require two pump stations to convey water to Alamitos Percolation Pond/Los Capitancillos Percolation Ponds; however, the two pump stations would have a smaller capacity than the pump station proposed under the Project due to the reduced pumping requirements of the two lakes under Alternative 2. As a result, the noise generated by the two pump stations under Alternative 2 would be similar to the operational noise of the Project's pump station.

On balance, Alternative 2 would reduce the construction-related impacts of the Project, and would meet all project objectives. Alternative 2 was rejected because all of the significant construction-related impacts of the Project would remain significant under this alternative, although the magnitude of the impact would generally be less. All of the impacts would be reduced to a less than significant level with implementation of the same mitigation measures specified in this EIR for the Project, with the exception of construction phase aesthetic resources effects which would remain significant and unavoidable. However, this alternative has the following disadvantages that provide the provide additional reasons for rejecting it on policy grounds: the Alamitos Creek restoration area would be reduced to a five-acre area, as compared to 11 acres under the Project; the narrower creek corridor (100 feet wide under Alternative 2, as compared to 210 to 420-feet wide under the Project) would require a deeper, less complex creek system to convey 100-year flood flows and more artificial hardscape features to control erosion, resulting in lower quality creek habitat for anadromous fish than the Project; and ground disturbance associated with pipeline construction would be somewhat

greater under this alternative (to provide a flow-through system for two separate lakes), potentially creating additional short-term disruptions of habitat.

Alternative 3 (Final EIR Section 4.B.4, Page 4-22) would convert the lake to park land, would require approximately 100,000 cubic yards more fill material than the Project, which would require a longer construction period than the Project, and construction-related impacts would be proportionately increased. Alternative 3 was rejected because the extended construction period would result in increased construction-related impacts on aesthetic resources, air quality, biological resources, energy resources, hydrology and water quality, and noise-related impacts compared to the Project. Alternative 3 would increase the construction-related impacts of the Project, and would only partially meet project objectives. In addition, Alternative 3 would require a lengthier planning period than the Project, to meet the regulatory and permitting requirements associated with filling Almaden Lake.

As described above, the No Project Alternative (Alternative 1) and Creek with East and West Lakes (Alternative 2) would both reduce construction effects relative to the Project because: (1) there would be no facilities constructed under the No Project Alternative, and (2) Alternative 2 construction would be somewhat reduced. The significant impacts of the Project would remain significant under Alternative 2. Construction phase aesthetic resources, air emissions, special-status species impacts, energy consumption, water quality impacts, and noise impacts would be somewhat less than under the Project, and would be reduced to a less than significant level with the implementation of mitigation measures specified in this EIR for the Project. All other significant construction impacts would remain significant under Alternative 2, and would be reduced to a less than significant level with implementation of mitigation measures specified in the EIR for the Project, with the exception of aesthetic resources impacts which would remain significant and unavoidable, similar to the Project.

None of the action alternatives would reduce any of the Project's significant impacts or cumulatively considerable impacts (pre-mitigation) to less than significant levels. However, Alternative 2 is considered the environmentally superior alternative among the Project alternatives (other than the No Project Alternative) because Alternative 2 would decrease the short-term, construction-related impacts as compared to the Project, resulting in reduced construction-related impacts on aesthetic resources, air quality, biological resources, energy resources, hydrology and water quality, and noise-related impacts. Although it is the environmentally superior alternative, the Board has nevertheless rejected Alternative 2 for the reasons stated above.

IX.C ADDITIONAL ALTERNATIVES CONSIDERED BUT REJECTED FROM FURTHER CONSIDERATION

The planning process for the Almaden Lake Improvement Project began in 2011. Over the course of the planning effort, Valley Water considered 11 additional alternatives to the Project in the context of the project objectives, technical feasibility, agency comment, public input, and constraints on implementation (Final EIR Section 4.D). The first five (5) alternatives (Alternatives 1 through 5) provide water source options for water management in Almaden Lake in lieu of Almaden Valley Pipeline. The next two (2) alternatives (Alternatives 6 and 7) examine variations on lake and open space themes. In response to agency comments, Valley Water developed the Expanded Creek Restoration alternative (Alternative 8). The public suggested two alternatives, East Creek with Large West Lake (Alternative 9) and Creek in Underground Culvert (Alternative 10). Finally, Valley Water considered a technology-only option to address the lake's water quality issues: Additional SolarBees (Alternative 11). Table 4 summarizes the additional alternatives considered, describes the alternatives' ability to meet the project objectives, and presents the reasons for rejecting these alternatives from further analysis.

**TABLE 4
ALTERNATIVES CONSIDERED BUT REJECTED FROM FURTHER CONSIDERATION**

Potential Alternative Identified	Description	Ability to Meet Project Objectives and Constraints on Implementation
Option 1. Alamitos Creek Water Source (Final EIR Page 4-34)	<ul style="list-style-type: none"> • Restore Alamitos Creek alignment along western edge of lake • Separate lake from creek, and re-contour and cap lake bed • Alamitos Creek water source to fill and maintain Almaden Lake • Place screened diversion structure in creek, which requires regular sediment removal activities around intake structure • Lake flow-through system discharges back to Alamitos Creek • New point of redirection established for Valley Water's existing upstream water rights 	<ul style="list-style-type: none"> • Partially Meets Project Objectives: <ul style="list-style-type: none"> - Separate creek from lake - Reduce production of methylmercury, and mercury in target fish in Almaden Lake to meet applicable water quality objectives - Remove potential lake entrainment of anadromous fish - Minimize impacts to existing recreational features • Reasons for Rejection: <ul style="list-style-type: none"> - Does not meet project objectives - Does not reduce significant impacts - Use of creek water reintroduces mercury to the lake - Regular maintenance of in-creek water diversion structure could be detrimental to anadromous fish habitat - Would require approval of a water right change petition by the State Water Resources Control Board to establish new redirection point of creek into lake
Option 2. Recycled Water Source (Final EIR Page 4-35)	<ul style="list-style-type: none"> • Restore Alamitos Creek alignment along western edge of lake • Separate lake from creek, and re-contour and cap lake bed • Recycled water source to fill and maintain Almaden Lake • Closed lake system 	<ul style="list-style-type: none"> • Partially Meets Project Objectives: <ul style="list-style-type: none"> - Separate creek from lake - Remove potential lake entrainment of anadromous fish - Improve temperature conditions and reduce predation for native fish; - Minimize impacts to existing recreational features • Reasons for Rejection: <ul style="list-style-type: none"> - Does not meet Project objectives - Poor water quality in lake (source water and closed lake system) - Recycled water source not available until approximately 2021

TABLE 4 (Continued)
ALTERNATIVES CONSIDERED BUT REJECTED FROM FURTHER CONSIDERATION

Potential Alternative Identified	Description	Ability to Meet Project Objectives and Constraints on Implementation
Option 3. Groundwater Source (Final EIR Page 4-37)	<ul style="list-style-type: none"> Restore Alamos Creek alignment along western edge of lake Separate lake from creek, and re-contour and cap lake bed Pumped groundwater source to fill and maintain Almaden Lake Lake flow-through system discharges to Alamos Percolation Pond/Los Capitancillos Percolation Ponds via new pipeline to Alamos Percolation Pond/Los Capitancillos Percolation Ponds 	<ul style="list-style-type: none"> Meets All Project Objectives: <ul style="list-style-type: none"> Separate creek from lake Reduce production of methylmercury, and mercury in target fish in Almaden Lake to meet applicable water quality objectives Remove potential lake entrainment of anadromous fish improve temperature conditions and reduce predation for native fish; Minimize impacts to existing recreational features Reasons for Rejection: <ul style="list-style-type: none"> Does not reduce significant impacts Potential impacts to groundwater levels and other well users Displacement of local surface water at Alamos Percolation Pond/Los Capitancillos Percolation Ponds groundwater recharge basin High annual groundwater pumping expenses Groundwater pump would introduce new noise source Use of groundwater would temporarily halt if Valley Water calls on the community to conserve water
Option 4. Los Capitancillos Recharge Water Source (Final EIR Page 4-38)	<ul style="list-style-type: none"> Restore Alamos Creek alignment along western edge of lake Separate lake from creek, and re-contour and cap lake bed Pump Los Capitancillos Recharge Pond water supplemented by Almaden Valley Pipeline imported water to fill and maintain Almaden Lake Lake flow-through system discharges to Alamos Percolation Pond/Los Capitancillos Percolation Ponds via new pipeline to Alamos Percolation Pond/Los Capitancillos Percolation Ponds 	<ul style="list-style-type: none"> Meets All Project Objectives: <ul style="list-style-type: none"> Separate creek from lake Reduce production of methylmercury, and mercury in target fish in Almaden Lake to meet applicable water quality objectives Remove potential lake entrainment of anadromous fish Improve temperature conditions and reduce predation for native fish; Minimize impacts to existing recreational features Reasons for Rejection: <ul style="list-style-type: none"> Does not reduce significant impacts Requires pumping water from Los Capitancillos to the lake Use of Guadalupe Creek water reintroduces mercury to the lake Requires improvements to ensure adequate capacity at Los Capitancillos Ponds, and improving pipelines between ponds in the Los Capitancillos system
Option 5. Alamos Canal Water Source (Final EIR Page 4-40)	<ul style="list-style-type: none"> Restore Alamos Creek alignment along western edge of lake Separate lake from creek, and re-contour and cap lake bed Convey water from the east-adjacent Coyote Creek Watershed to Almaden Lake via the Alamos Canal Lake flow-through system discharges to Alamos Percolation Pond/Los Capitancillos Percolation Ponds via new pipeline to Alamos Percolation Pond/Los Capitancillos Percolation Ponds 	<ul style="list-style-type: none"> Meets All Project Objectives: <ul style="list-style-type: none"> Separate creek from lake Reduce production of methylmercury, and mercury in target fish in Almaden Lake to meet applicable water quality objectives Remove potential lake entrainment of anadromous fish Improve temperature conditions and reduce predation for native fish; Minimize impacts to existing recreational features Reasons for Rejection: <ul style="list-style-type: none"> Does not reduce significant impacts Feasibility of rehabilitating and operating the Alamos Canal Alamos Canal could convey higher-than-planned flows into Almaden Lake, and sediment-laden runoff water into the lake

TABLE 4 (Continued)
ALTERNATIVES CONSIDERED BUT REJECTED FROM FURTHER CONSIDERATION

Potential Alternative Identified	Description	Ability to Meet Project Objectives and Constraints on Implementation
		<ul style="list-style-type: none"> - Would require approval of a water right change petition by the State Water Resources Control Board to establish new point of diversion from Coyote Creek Watershed to Almaden Lake
Option 6. Creek with West Lake and East Open Space (Final EIR Page 4-41)	<ul style="list-style-type: none"> • Restore Alamos Creek alignment, separating the creek from the lake • Single 5-acre West Lake with re-contoured and capped lake bed • New 22-acre park/open space created by filling east lake area • Alamos Creek water source to fill and maintain West Lake • Place screened inlet and outlet pipes and a sediment catchment area in creek, requiring regular sediment removal activities • Requires use of Alamos flashboard dam • New point of diversion established for Valley Water's existing upstream water rights • Relocate pedal boat facility to western bank of West Lake 	<ul style="list-style-type: none"> • Partially Meets Project Objectives: <ul style="list-style-type: none"> - Separate creek from lake - Reduce production of methylmercury, and mercury in target fish in Almaden Lake to meet applicable water quality objectives - Remove potential lake entrainment of anadromous fish • Reasons for Rejection: <ul style="list-style-type: none"> - Does not reduce significant impacts - Large volume of fill required - Use of creek water reintroduces mercury to the lake - Regular maintenance of in-creek inlet and outlet pipes and sediment catchment area could be detrimental to anadromous fish habitat - Narrower and less complex and diverse creek habitat restoration than Project - Would require approval of a water right change petition by the State Water Resources Control Board to establish new diversion point of creek into lake - Lake size reduced for boating - Public opposition to reduced presence of lake feature at the Park
Option 7. Creek with West Wetland and East Lake (Final EIR Page 4-43)	<ul style="list-style-type: none"> • Restore Alamos Creek alignment, separating the creek from the lake • New 5-acre wetland area west of creek • 22-acre East Lake with re-contoured and capped lake bed • Alamos Creek water source to fill and maintain East Lake and replenish wetland • Place screened inlet and outlet pipes and a sediment catchment area in creek, requiring regular sediment removal activities • Requires use of Alamos flashboard dam • New point of diversion established for Valley Water's existing upstream water rights • Relocate pedal boat facility to eastern bank of East Lake 	<ul style="list-style-type: none"> • Partially Meets Project Objectives: <ul style="list-style-type: none"> - Separate creek from lake - Reduce production of methylmercury, and mercury in target fish in Almaden Lake to meet applicable water quality objectives - Remove potential lake entrainment of anadromous fish - Minimize impacts to existing recreational features • Reasons for Rejection: <ul style="list-style-type: none"> - Does not reduce significant impacts - Use of creek water reintroduces mercury to the lake - Regular maintenance of in-creek inlet and outlet pipes and sediment catchment area could be detrimental to anadromous fish habitat - Narrower and less complex and diverse creek habitat restoration than Project - Would require approval of a water right change petition by the State Water Resources Control Board to establish new diversion point of creek into lake - Public Concerns regarding potential odors and mosquito nuisance associated with wetland
Option 8. Expanded Creek Restoration (Final EIR Page 4-44)	<ul style="list-style-type: none"> • Incorporate all elements of the Project • Expand restoration to 1,700-foot segment of Alamos Creek downstream to the Alamos Diversion Dam • Replace Alamos Diversion Dam with an alternative water 	<ul style="list-style-type: none"> • Meets All Project Objectives <ul style="list-style-type: none"> - Separate creek from lake - Reduce production of methylmercury, and mercury in target fish in Almaden Lake to meet applicable water quality objectives - Remove potential lake entrainment of anadromous fish - Improve temperature conditions and reduce predation for native fish;

TABLE 4 (Continued)
ALTERNATIVES CONSIDERED BUT REJECTED FROM FURTHER CONSIDERATION

Potential Alternative Identified	Description	Ability to Meet Project Objectives and Constraints on Implementation
	diversion system (pumping plant and fish screen)	<ul style="list-style-type: none"> - Minimize impacts to existing recreational features • Reasons for Rejection <ul style="list-style-type: none"> - Does not reduce any of the significant environmental impacts of the Project - Economically infeasible because prohibitively expensive and substantially beyond the estimated budget for the Project - Downstream loss of potentially jurisdictional waters of the U.S. - Uncertainty about feasibility of alternate water diversion system
Option 9. East Creek with Large West Lake (Final EIR Page 4-46)	<ul style="list-style-type: none"> • Restored Alamos Creek alignment roughly following eastern edge of lake • Separate creek from lake with a berm on west side of creek featuring the same cross-section as the levee under the Project • Single lake to the west at existing beach • Option proposed by public 	<ul style="list-style-type: none"> • Partially Meets Project Objectives: <ul style="list-style-type: none"> - Separate creek from lake - Remove potential lake entrainment of anadromous fish - Improve temperature conditions and reduce predation for native fish; - Minimize impacts to existing recreational features • Reasons for Rejection: <ul style="list-style-type: none"> - Technically infeasible. Constrained by physical conditions, primarily existing site elevation changes – the restored creek would be too flat to properly convey flows
Option 10. Creek in Underground Culvert (Final EIR Page 4-47)	<ul style="list-style-type: none"> • Install culvert beneath the Almaden Lake to separate and convey Alamos Creek past the lake • Remove existing mercury from the lake bed • Culvert pipe size to carry 100-year storm flow would be 30 to 40 feet in diameter • Option proposed by public 	<ul style="list-style-type: none"> • Partially Meets Project Objectives: <ul style="list-style-type: none"> - Separate creek from lake - Improve temperature conditions and reduce predation for native fish; - Minimize impacts to existing recreational features • Reasons for Rejection: <ul style="list-style-type: none"> - Would not meet most project objectives - Culverting creek would provide poor aquatic habitat, and barrier to anadromous fish passage - Technically infeasible due to size of culvert required
Option 11. Additional SolarBees (Final EIR Page 4-48)	<ul style="list-style-type: none"> • Install additional SolarBee water circulators to increase oxygenation of lake 	<ul style="list-style-type: none"> • Does Not Meet Most Project Objectives: <ul style="list-style-type: none"> - Minimize impacts to existing recreational features • Reasons for Rejection: <ul style="list-style-type: none"> - Would not meet most project objectives

IX.D COMMENTS ON DRAFT EIR AND FURTHER CONSIDERATION OF ADDITIONAL CEQA ALTERNATIVE

As noted in Final EIR Appendix G, Section G.3, many commenters suggested that Valley Water conduct a more detailed analysis of an alternative to the Project. Specifically, commenters requested that an option presented in EIR Section 4.D, Alternatives Considered but Rejected from Further Analysis, be analyzed as a CEQA alternative. As summarized in Table 4, this option, Alternative (Option) 8, Expanded Creek Restoration, would remove or modify the Alamos diversion dam and drop structure downstream of the Project area to allow restoration of this reach of Guadalupe River, prevent the backwater effect when the flashboard dam is in place, and further improve fish and riparian habitat.

As background, the expanded creek restoration concept was originally proposed by the National Marine Fisheries Service (NMFS) in response to the Notice of Preparation issued for the Project in 2014. Others, including the Sierra Club and the South Bay Clean Creeks Coalition made similar requests to the Board as part of the Fiscal Year 2015-16 Capital Improvement Program (CIP) in setting the scope and budget of the Almaden Lake Improvement Plan. Without allocated budget, Option 8 would increase costs substantially. In addition, the Alamos Diversion Dam provides essential groundwater recharge as part of the District's water supply system

The Project purpose (Final EIR Chapter 2, Page 2-7), is to restore Alamos Creek's function within the footprint of Almaden Lake Park in order to improve physical habitat for steelhead and other anadromous fish, while improving water quality within the lake footprint, and minimizing impacts to existing recreational features within the Park. The Project as proposed would accomplish the Project objectives. While Alternative 8 could provide additional enhancement benefits to fish habitat, it would result in more adverse impacts than the Project. Lead agencies may properly eliminate from further consideration potential alternatives that are incapable of reducing a project's significant environmental impacts. See, e.g., *In re Bay-Delta*, 43 Cal.4th (2008) 43 Cal.4th 1143 1167–1168 (an EIR need not consider an alternative that addresses preexisting problems that were part of baseline, but did not address adverse environmental impacts of proposed project).

As noted in Final EIR Appendix G, Section G.3, Alternative 8 was considered but rejected from further consideration in the EIR for several reasons. It would not decrease any of the significant effects of the Project (Final EIR Pages 4-44 and 4-45). Alternative 8 would include all of the elements of the Project, and would therefore, also include all of the significant environmental impacts of the Project. Because Alternative 8 would expand the Project footprint to include the area between the lake and the Alamos Diversion Dam, it would have more extensive construction-related impacts than would occur under the Project. In addition, the area periodically inundated by the operation of the Alamos Flashboard Dam, including the Alamos Percolation Pond/Los Capitancillos Percolation Ponds, are potentially jurisdictional waters of the U.S. Ceasing the operation of the Alamos Flashboard Dam as proposed under this option could reduce the size and extent of these potentially jurisdictional waters.

Also, an expanded Project footprint that includes the Project as proposed, in addition to an extensive segment of the creek downstream would be associated with increased construction related impacts, including additional dust generation, air pollutant emissions, greenhouse gas emissions, energy use, noise, and truck trips from the additional construction equipment needed for grading and hauling; aesthetic impacts to the channel; and impacts to nesting birds, trees, and unknown cultural resources. Eliminating the ponded area above the diversion dam under Alternative 8 would also reduce the volume of groundwater recharged in-stream as water impounded by the flashboard dam percolates into underlying aquifers and is considered part of Valley Water's managed recharge program. Eliminating the diversion dam would also require a new diversion structure to supply local water to the Alamos Percolation Pond, which would generate additional construction and operational environmental impacts.

While revising the creek between the Lake to the Alamos Diversion Dam could address specific baseline conditions associated with the operation of structure, an EIR does not need to consider an alternative that addresses preexisting problems that are part of the baseline, but does not reduce or avoid the significant environmental impacts of the Project. Alternative 8 is essentially a different, more expanded project, with different objectives. However, under CEQA, Valley Water has considerable discretion to identify and pursue a particular project designed to

meet a particular set of objectives. *California Oak Foundation v. Regents of University of California* (2010) 188 Cal.App. 4th 227,276.

Furthermore, Alternative 8 is rejected because it is infeasible (see Final EIR Page 4-45) because it is prohibitively expensive, and beyond the budget for the Project provided by Valley Water's Board in the 2015-2016 Capital Improvement Program (CIP)., Requests to expand the Project objectives and footprint were made to the Board as part of the Fiscal Year 2015-16 CIP. However, the Board did not alter the Project objectives and budget during approval of the CIP, so the Project as defined and considered and evaluated in the EIR retained the original objectives and footprint of improvements within Almaden Lake Park, and did not extend downstream to include the diversion dam. It is noted that planning for the Project is being funded as one of two creek-lake separation projects under Priority D of the Safe Clean Water Program.

The Project has a funding source related to separating Alamitos Creek from Almaden Lake. Therefore, the Project funding source provided by the Board does not extend downstream of the Lake.

Although no cost estimates have been prepared for removing the drop structure and restoring the Guadalupe River, the cost would be substantial and would include planning and design for removal of existing infrastructure (dam with fish ladder, groundwater percolation pond pipes with appurtenances), and restoration of the channel, an application for water rights alteration to the State Water Resources Control Board, planning and design of an alternate diversion structure to provide water to the Alamitos and Guadalupe Percolation Ponds, construction and monitoring of all elements.

In summary, this alternative was considered in the EIR, but is rejected from further consideration because:

- It does not reduce significant environmental effects of the Project as required for an alternative under CEQA;
- It increases construction related impacts beyond those of the Project;
- It decreases in-stream groundwater recharge behind the diversion dam in the Guadalupe River and requires modifying water supply inputs and infrastructure to the Alamitos Percolation Pond, thereby reducing District water supplies; and
- It is considered infeasible because it substantially expands beyond the budget for the Project provided by the District's Board.

X. EIR RECIRCULATION NOT REQUIRED

The changes and new information provided in the Final EIR consist of:

- clarifications to the Draft EIR analysis in response to comments received,
- minor revisions to mitigation measures in response to comments received,
- corrections of typographic and editorial errors, and
- other District-initiated changes to the project description and impact analyses.

For example, changes to the project description include:

- Adding the Los Capitancillos Percolation Ponds, as an additional receiving body for Lake Almaden water via a pipeline connection (Final EIR Page 2-1)
- Eliminating the Sycamore Terrace Property as a staging area (Final EIR Pages 2-2 and 2-47)
- Revising the number of Alamos Creek Maintenance Access Ramps from two to three (Final EIR Page 2-14)
- Revising the description of the Alamos Creek Channel Restoration to include a short wall and a new berm (Final EIR Pages 2-12 and 2-13)
- Revising the route of the new Almaden Lake Inlet Pipeline and increasing the length from 2,900 feet to 3,600 feet (Final EIR Pages 2-16 and 2-44/2-45)
- Revising the route of the new pipeline from the Lake to the Alamos Percolation Pond/Los Capitancillos Percolation Ponds and increasing the length from 2,000 feet to 2,600 (Final EIR Pages 2-18 and 2-45)
- Revising the description of the pump station from one of two locations, to a selected location, and locating it partially underground instead of above-ground (Final EIR Page 2-18 and 2-45)
- Adding a section titled, Summary of Net Benefits of Waters of the State (Final EIR Page 2-27)
- Changing the estimated number of trees to be removed from up to 81 to approximately 81-95 (Final EIR p. 2-41)
- Changing the description of cut material soil stockpiling (Final EIR Pages 2-40 and 2-41)

This new information does not include identification of new or substantially increased significant impacts associated with the Project or mitigation measures, or new Project alternatives or mitigation measures that are considerably from those previously analyzed that would clearly lessen the Project's significant impacts.

The Board finds that the new information added to the Final EIR merely clarifies, amplifies, or makes insignificant modifications in an adequate EIR and is not "significant" within the meaning of CEQA Guidelines Section 15088.5. The Board further finds that incorporating the new information and corrections does not deprive the public of a meaningful opportunity to comment on the Project or its effects, and that no information has been added to the Final EIR that would warrant recirculation pursuant to Public Resources Code Section 21092.1. This finding is based upon all the information presented in the Final EIR and the record of proceedings.

XI. MITIGATION, MONITORING, AND REPORTING PLAN

Following adoption of these Findings, the Board will consider approving a Mitigation, Monitoring, and Reporting Plan (MMRP) pursuant to Public Resources Code Section 21081.6. The MMRP, which is attached, is designed to enable, ensure, and document compliance with the mitigation

measures imposed to avoid or substantially lessen the Project's environmental impacts as documented in the Final EIR.

XII. STATEMENT OF OVERRIDING CONSIDERATIONS

As mentioned in Section I of these Findings, for a project that has significant impacts that cannot feasibly be avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a Statement of Overriding Considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines Sec.15093, 15043(b); see also Public Resources Code Sec. 21081(b).)

The Project components have been designed to benefit local, native fish populations by improving anadromous fish passage and riverine habitat, reducing non-native fish predation, reducing water temperatures and mercury methylation (Final EIR Page 2-25), and improving ecosystem function (Final EIR Page 2-26), while also supporting existing recreational use of Almaden Lake Park by the surrounding community. Existing recreational uses would continue at the Park, with some facilities improvements to enhance existing recreational uses, including new trails/walking paths, enhanced bird and wildlife viewing opportunities, and new open park area (Final EIR Pages 2-26 and 2-27).

The Project has been designed to benefit native fisheries and improve water quality in Alamos Creek and Almaden Lake, which are waters of the U.S. and of the State. These improvements, along with the Project's maintenance of water supply and recreational beneficial uses, would provide net benefits to the waters of the U.S. and the State. **Table 5** summarizes the Project's net effect on current and potential beneficial uses of waters in the Project footprint, based on the uses listed for Alamos Creek in the San Francisco Bay Basin Plan. Of 11 existing or potential beneficial uses, the Project would increase or improve seven and maintain four. There would be no detriment to any beneficial use.

TABLE 5
SUMMARY OF PROJECT BENEFITS TO WATERS OF THE STATE

<u>Beneficial Use</u>	<u>Summary of Project Condition</u>	<u>Summary of Project Benefit</u> <u>Final EIR Pages 2-25 through 2-27</u>	<u>Net Project Effect</u>
Cold Freshwater Habitat (Cold)	None; Almaden Lake does not currently support this beneficial use	Increased area of suitable habitat in restored Alamos Creek and improved quality of habitat in Guadalupe River	Beneficial
Freshwater Replenishment (Frsh)	None; Almaden Lake does not currently support this beneficial use	Improved water quality in Guadalupe River and SF Bay	Beneficial
Groundwater Recharge (Gwr)	Maintained groundwater recharge infrastructure and capacity		No change
Fish Migration (Migr)	Poor passage conditions and high predation risk through the lake	Increased area of suitable riverine passage conditions; reduced predation risk to migrating fish	Beneficial
Municipal And Domestic Supply (Mun)	Maintained water supply-related infrastructure and capacity		No change
Preservation Of Rare And Endangered Species (Rare)	Low-quality lacustrine habitat that threatens rare fish passage and predation, and the health of multiple rare species	Increased area of suitable habitat for rare fish passage and rearing; lower risk of bioaccumulation of mercury for multiple rare species	Beneficial

<u>Beneficial Use</u>	<u>Summary of Project Condition</u>	<u>Summary of Project Benefit</u> <u>Final EIR Pages 2-25 through 2-27</u>	<u>Net Project Effect</u>
Water Contact Recreation (Rec1)	None; Almaden Lake does not currently support this beneficial use	None; although reduced suitable habitat for geese and potential for algal blooms may help support this	No change
Noncontact Water Recreation (Rec2)	Maintained noncontact water recreation opportunities		No change
Fish Spawning (Spwn)	None; Almaden Lake does not currently support this beneficial use	Small increase in suitable spawning substrate in the restored Alamos Creek channel; improved access to suitable spawning areas upstream	Beneficial
Warm Freshwater Habitat (Warm)	Reduced area of warm freshwater habitat	Improved quality of conserved and downstream warm freshwater habitat	Beneficial
Wildlife Habitat (Wild)	Reduced area of open water and shoreline habitat	Increased diversity of wildlife habitat types and increased area of riverine, floodplain, and wetland habitats	Beneficial

In determining whether to approve the Project, the Board has weighed the economic, legal, social, technological, environmental, and other benefits of the Project against its unavoidable significant environmental impacts. In consideration of the long-term benefits the Project would provide to waters of the State, fish, and wildlife, as listed in Table 3, as well as the continued and expanded recreational opportunities provided by the Project, the Board hereby finds that the benefits of the Project outweigh its unavoidable significant short-term direct and cumulative impacts on aesthetics, such that these unavoidable significant impacts are considered “acceptable.” Each benefit set forth above constitutes an overriding consideration warranting approval of the Project, independent of the other benefits.

XIII. REFERENCES CITED

BAAQMD, 2017. Final 2017 Clean Air Plan, Spare the Air Cool the Climate, A Blueprint for Clean Air and Climate Protection in the Bay Area. Adopted April 19, 2017.

San Francisco Bay Regional Water Quality Control Board (RWQCB), 2008. Guadalupe River Watershed Mercury Total Maximum Daily Load (TMDL) Project Basin Plan Amendment. Adopted by RWQCB October 8, 2008. Approved by U.S. Environmental Protection Agency on June 2, 2010. Available: http://www.swrcb.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/guadalupeivermercurytml.shtml.

Santa Clara Valley Habitat Agency (SCVHA), 2012. Santa Clara Valley Habitat Plan. August 2012.

Santa Clara Valley Water District, 2014. Best Management Practices Handbook, effective on September 25, 2014.

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EXHIBIT 2 COVERSHEET

MITIGATION MONITORING AND REPORTING PROGRAM

No. of Pages: 20

Almaden Lake Improvement Project Mitigation Monitoring and Reporting Program

Introduction

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared pursuant to the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. It provides for the monitoring of mitigation measures required of the Santa Clara Valley Water District (Valley Water) for the Almaden Lake Improvement Project (Project) in as set forth in the Environmental Impact Report (EIR) and Findings of Fact.

Section 21081.6 of the California Public Resources Code and Sections 15091(d) and 15097 of the State CEQA Guidelines require public agencies “to adopt a reporting or monitoring program for changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment.”

An MMRP is required for the proposed project because the EIR identified significant impacts and identified mitigation measures to reduce most of those impacts to less than significant levels. The Valley Water Board of Directors adopted these mitigation measures concurrently with the adoption of this MMRP.

Purpose

This MMRP has been prepared to ensure that all mitigation measures are implemented and completed according to schedule and maintained in a satisfactory manner throughout implementation of the proposed project. The MMRP may be modified by the Valley Water in response to changing conditions or circumstances.

The below table describes the individual mitigation measures, and for each measure identifies the timing, responsibility for implementation, and responsibility for oversight. The order in which mitigation measures are presented (by resource category) follows the sequence in the EIR.

Roles and Responsibilities

Valley Water and/or its contractors are responsible for taking all actions necessary to implement the mitigation measures and demonstrating that each action has been successfully completed. Valley Water is responsible for oversight and periodic reporting.

ALMADEN LAKE IMPROVEMENT PROJECT MITIGATION MONITORING AND REPORTING PROGRAM SUMMARY TABLE					
Environmental Issue	Measure Element #	Mitigation Measure	Timeframe for Implementation	Responsibility for Implementation	Responsibility for Oversight
AIR QUALITY					
3.C-1: The Project would conflict with or obstruct implementation of the applicable air quality plan.	3.C-1a	U.S. EPA Tier 4 Engines. The Santa Clara Valley Water District and/or its construction contractors shall be required to use off-road diesel construction equipment compliant with U.S. EPA Tier 4 non-road engine standards. Prior to the commencement of construction activities, the construction contractor and/or the Santa Clara Valley Water District shall prepare an equipment list that identifies each piece of off-road equipment to be operated at the Project site by its equipment identification number (EIN) and demonstrates that each piece of equipment meets U.S. EPA Tier 4 non-road engine standards. The list shall be made available at the construction site and shall be updated when new or replacement construction equipment are brought to the site.	Prepare Equipment List, prior to construction activities. Make available and comply with the List, during construction.	The construction contractor and/or Valley Water	Valley Water
	3.C-1b	BAAQMD Basic Construction Measures. The Santa Clara Valley Water District and/or its construction contractors shall comply with the following applicable BAAQMD Basic Construction Mitigation Measures: BAAQMD Basic Construction Measures <ol style="list-style-type: none"> 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. 2. All haul trucks and railcars transporting soil, sand, or other loose material off-site shall be covered. 3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. 4. All vehicle speeds on unpaved roads shall be limited to 15 mph. 	Comply with Measure #8, prior to construction activities. Comply with Measure #s 1-7, during construction.	The construction contractor and/or Valley Water	Valley Water

ALMADEN LAKE IMPROVEMENT PROJECT MITIGATION MONITORING AND REPORTING PROGRAM SUMMARY TABLE					
Environmental Issue	Measure Element #	Mitigation Measure	Timeframe for Implementation	Responsibility for Implementation	Responsibility for Oversight
		<p>5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</p> <p>6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</p> <p>7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.</p> <p>8. Post a publicly visible sign with the telephone number and person to contact at Santa Clara Valley Water District regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.</p>			
3.C-2: The Project would result in a cumulatively considerable net increase of a criteria pollutant for which the SFBAAB is in non-attainment under applicable federal and state ambient air quality standards.	3.C-1a 3.C-1b	<p>Implement Mitigation Measure 3.C-1a: <i>U.S. EPA Tier 4 Engines.</i></p> <p>Implement Mitigation Measure 3.C-1b: <i>BAAQMD Basic Construction Mitigation Measures.</i></p>			

ALMADEN LAKE IMPROVEMENT PROJECT					
MITIGATION MONITORING AND REPORTING PROGRAM SUMMARY TABLE					
Environmental Issue	Measure Element #	Mitigation Measure	Timeframe for Implementation	Responsibility for Implementation	Responsibility for Oversight
3.C-3: The Project would expose sensitive receptors to substantial pollutant concentrations.	3.C-1a	Implement Mitigation Measure 3.C-1a: <i>U.S. EPA Tier 4 Engines.</i>			
	3.C-1b	Implement Mitigation Measure 3.C-1b: <i>BAAQMD Basic Construction Mitigation Measures.</i>			
5.C: Cumulative emissions of air pollutants.	3.C-1a	Mitigation Measure 3.C-1a: <i>U.S. EPA Tier 4 Engines.</i>			
	3.C-1b	Mitigation Measure 3.C-1b: <i>BAAQMD Basic Construction Mitigation Measures.</i>			
BIOLOGICAL RESOURCES					
3.D-1: Construction or operation of the Project could have a substantial effect on special-status birds, common nesting migratory birds and raptors, and roosting bats in the Study Area.	3.D-1a	<i>Nesting Bird Protection Measures.</i> The District and/or its contractor(s) shall implement the following during construction of the proposed Project: <ul style="list-style-type: none">Removal of trees and scrub vegetation shall occur outside the bird nesting season (January 15 to September 1), to the extent feasible.If removal of trees and vegetation cannot be fully accomplished outside of nesting season, a qualified biologist shall conduct preconstruction nesting surveys within seven days prior to the start of such activities or after any construction breaks of seven days or more. Surveys shall be performed for the Study Area and suitable habitat within 250 feet of the project site to locate any active raptor (birds of prey) nests or rookeries.If active nests are located during the preconstruction bird nesting survey, the qualified biologist shall evaluate if the schedule of construction activities could affect the active nests and the following measures shall be implemented based on their determination:<ul style="list-style-type: none">If construction is not likely to affect the active nest, it may proceed without restriction; however, a biologist shall regularly monitor the nest to confirm there is no adverse effect and may revise their	Conduct preconstruction nesting surveys, if necessary, within seven (7) days prior to the start of tree removal activities or after any construction breaks of seven (7) days or more. Protective measures, if necessary, prior to and during construction	The construction contractor and/or Valley Water	Valley Water

ALMADEN LAKE IMPROVEMENT PROJECT
MITIGATION MONITORING AND REPORTING PROGRAM SUMMARY TABLE

Environmental Issue	Measure Element #	Mitigation Measure	Timeframe for Implementation	Responsibility for Implementation	Responsibility for Oversight
		<p>determination at any time during the nesting season. In this case, the following measure would apply.</p> <ul style="list-style-type: none"> – If construction may affect the active nest, the biologist shall establish a no disturbance buffer in consultation with CDFW. Typically, these buffer distances are 50 feet for passerines and between 300 feet for raptors. These distances may be adjusted depending on the level of surrounding ambient activity (e.g., if the project area is adjacent to a road or active trail) and if an obstruction, such as a building, is within line-of-sight between the nest and construction. For bird species that are federally and/or state-listed sensitive species (i.e., fully protected, endangered, threatened, species of special concern), a District representative, supported by the qualified biologist, shall coordinate with the USFWS and/or CDFW regarding modifications to nest buffers, prohibiting construction within the buffer, modifying construction, or removing or relocating active nests that are found on the site. – Any birds that begin nesting within the project area and survey buffers amid construction activities are assumed to be habituated to construction-related or similar noise and disturbance levels. Qualified biologist, shall coordinate with the USFWS and/or CDFW and determine if no work exclusion zones shall be established around active nests in these cases. 			

ALMADEN LAKE IMPROVEMENT PROJECT
MITIGATION MONITORING AND REPORTING PROGRAM SUMMARY TABLE

Environmental Issue	Measure Element #	Mitigation Measure	Timeframe for Implementation	Responsibility for Implementation	Responsibility for Oversight
	3.D-1b	<p>Protective Measures for Bats. The District shall engage a qualified biologist to conduct a habitat assessment for suitable bat roost habitat features, followed by a preconstruction survey(s) of the Project area as needed in order to locate active colonies and/or special-status species, conducted in an appropriate timeframe in advance of initiation of tree trimming or removal, or disturbance to other potential roost features, and to plan work accordingly to avoid or minimize impacts. The preconstruction survey should include at a minimum: a) identification of potential direct and indirect Project-related disturbing activities; b) locations of potential roost habitat features; c) species identification and locations of active bat colonies or special status bats within or adjacent to the Project area, along with estimated numbers when possible; and d) a description of protective measures to be implemented prior to construction. No Project-related activities that could disturb active roosts shall proceed prior to the completed surveys.</p> <p>Should special-status bats be found in trees or structures to be disturbed under the proposed Project, or it is determined by a qualified biologist that Project activities would result in significant impacts to bats, the following measures shall be implemented:</p> <ul style="list-style-type: none"> • Removal of trees shall occur when bats are active, approximately between the periods of March 1 to April 15 and August 15 to October 15; outside of bat maternity roosting season (approximately April 15 – August 31); and outside of months of winter torpor (approximately October 15 – February 28), to the extent feasible. • If removal of trees or disturbance to other roost features during the periods when bats are active is not feasible and active bat roosts being used for maternity 	<p>Habitat assessment, pre-construction survey(s) and description and implementation of protective measures, prior to initiation of tree trimming or removal, or disturbance to other potential roost features.</p> <p>Implement measures to protect bats, if necessary, during construction</p>	Valley Water	Valley Water

ALMADEN LAKE IMPROVEMENT PROJECT MITIGATION MONITORING AND REPORTING PROGRAM SUMMARY TABLE					
Environmental Issue	Measure Element #	Mitigation Measure	Timeframe for Implementation	Responsibility for Implementation	Responsibility for Oversight
		<p>or hibernation purposes are found within or in the immediate vicinity of the Project area where tree removal or other disturbance is planned, an appropriate no-disturbance buffer, determined by a qualified biologist, shall be established around the roost sites until they are determined to be no longer active by a qualified biologist. If special-status bats are identified, CDFW shall be contacted for further guidance.</p> <ul style="list-style-type: none"> • The qualified biologist shall be present onsite to monitor during tree or habitat feature disturbance if active bat roosts are present. • Removal of trees containing or suspected to contain active bat roosts shall be removed under the supervision of the qualified biologist on the second day of a two-day removal process. Trees shall be removed through a two-phase process to significantly change the roost conditions by trimming branches during the first phase, causing bats, if present, to abandon the roost at night, before completely removing the tree on the second day. Trees with active roosts shall be removed only when no rain is occurring or is forecast to occur for three days, and when daytime temperatures are at least 50°F. • If there are significant impacts to bat roosting habitat (e.g., maternity roosts or hibernacula of sensitive or special -status species, or large non-maternity roost sites of sensitive species, or any number of special status species) due to project activities, a qualified biologist experienced in successful bat mitigation techniques shall develop a Bat Avoidance Plan including adequate buffer zones and/or other requirements to minimize the impact to the roosting site. 			

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MITIGATION MONITORING AND REPORTING PROGRAM SUMMARY TABLE

Environmental Issue	Measure Element #	Mitigation Measure	Timeframe for Implementation	Responsibility for Implementation	Responsibility for Oversight
3.D-6: The Project could conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	3.D-6	<p><i>Tree Protection Measures.</i> Trees adjacent to the project area that are retained during construction can still experience irreparable damage to roots and other tree parts with excavation, compaction, mechanical injury, and/or over pruning for construction access.</p> <ul style="list-style-type: none"> Construction impacts shall be evaluated and planned to avoid locally native trees and other trees protected by City code. A site meeting with contractor, certified arborist, and other project personnel shall be conducted prior to construction to discuss tree protection measures and specific tree resources. The construction contract must include the on-call services of qualified arborist. All pruning work shall be conducted or directly overseen by a certified arborist. All pruning shall be done in accordance with ISA "Tree Pruning Guidelines" and/or the ANSI A300 Pruning Standards. Pruning of limbs and roots shall be minimized and conducted during cool, dry weather outside the active growing season when feasible. Access needs and equipment clearance shall be determined well in advance of construction to help schedule required pruning work at a time that is least detrimental to the tree species involved. Pruning of more than 25% of an individual tree's canopy or crown in a single season shall be avoided. Removal of live limbs greater than 4 inches in diameter shall be avoided if possible or receive prior approval by a certified arborist. Selective removal of tree limbs for equipment access is always preferable to mechanical injury or incidental contact of equipment with tree parts during construction. Some branches may be tied back temporarily, rather than removed, to facilitate site access. 	<p>Site meeting to discuss tree protection measures and specific tree resources, prior to construction activities.</p> <p>Protection measures, during construction.</p>	The construction contractor and/or Valley Water	Valley Water

ALMADEN LAKE IMPROVEMENT PROJECT MITIGATION MONITORING AND REPORTING PROGRAM SUMMARY TABLE					
Environmental Issue	Measure Element #	Mitigation Measure	Timeframe for Implementation	Responsibility for Implementation	Responsibility for Oversight
		<ul style="list-style-type: none"> Establish a "Tree Protection Zone" (TPZ) around trees retained in the project area during construction. The TPZ shall be clearly marked and defined in the field using fencing or similar access deterrent and should be determined by the City's Arborist, or the Project designated ISA Certified arborist. No grading, compaction, excavation, soil storage, equipment storage, hazardous material storage, removal of understory vegetation, or equipment operation shall be conducted in the TPZ. Any grading, construction, demolition, or excavation work that may encounter live tree roots (from trees scheduled for retention in Project area) shall be monitored by a certified arborist. Roots may extend beyond the canopy dripline or there may be insufficient space available for an adequate TPZ. Compaction of undisturbed native soils shall be considered as part of root area impacted by construction. When larger roots (>2-inch diameter) are encountered during construction, excavations shall only continue by hand or with smaller, hand-held tools (e.g. air spade) until sufficient root area has been exposed to cut it cleanly with a sharp instrument (e.g. pruning saw, cut-off saw, loppers) to remove the portion overlapping the construction area. Root pruning shall be conducted by or under direct supervision of a certified arborist. If feasible, root pruning along the outside edge of a trench or other excavation shall be conducted prior to construction utilizing a combination of small equipment (i.e. trencher, small backhoe, cut-off saw) and hand tools. This "pre-pruning" gives the trees a chance to adapt to root loss prior to construction and develop new feeder roots that aid in water absorption. 			

ALMADEN LAKE IMPROVEMENT PROJECT MITIGATION MONITORING AND REPORTING PROGRAM SUMMARY TABLE					
Environmental Issue	Measure Element #	Mitigation Measure	Timeframe for Implementation	Responsibility for Implementation	Responsibility for Oversight
		<ul style="list-style-type: none"> All tools used for pruning of tree roots or limbs shall be kept sharp and regularly disinfected to discourage the spread of plant pathogens. 			
5.D: Cumulative loss of sensitive biological resources during construction and operations.	3.D-1a	Implement Mitigation Measure 3.D-1a: <i>Nesting Bird Protection Measures</i> .			
	3.D-1b	Implement Mitigation Measure 3.D-1b: <i>Protective Measures for Bats</i> .			
	3.D-6	Implement Mitigation Measure 3.D-6: <i>Tree Protection Measures</i>			
FISHERIES RESOURCES					
3.E-1: Construction and operation of the Project would have a substantial effect on special-status native fish and their aquatic habitat in Almaden Lake and Alamos Creek	3.E-1	<p>Native Fish Capture and Relocation. The District and/or contractor shall implement a fish relocation plan consistent with the following conditions:</p> <ul style="list-style-type: none"> Before fish rescues are attempted resource agency authorization shall be obtained Upon arrival at the site, qualified biologists shall determine the extent of the dryback and if there shall be any immediate or foreseeable impacts to fish and wildlife. This includes a reconnaissance survey of the dryback zone to establish an operational response. Before dewatering can begin, the following fish relocation elements shall be determined: <ul style="list-style-type: none"> <i>Staging Area:</i> Identify staging areas in the dryback zone. Sites should be selected on the basis of proximity and access to the dryback zone and safe operation of the equipment. <i>Relocation Sites:</i> Priority shall be given to close proximity to the dryback zone within the same stream; if it is determined by a qualified on-site biologist that no suitable site within the stream is available, then "second choice" locations within the watershed shall be selected. In all cases, the 	<p>Notify appropriate resource agencies for authorization, at least 24 hours prior to any fish rescue or relocation activities.</p> <p>Determine fish capture and relocation elements, prior to dewatering.</p> <p>Other fish capture and relocation elements, during construction.</p>	The construction contractor and/or Valley Water	Valley Water

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Environmental Issue	Measure Element #	Mitigation Measure	Timeframe for Implementation	Responsibility for Implementation	Responsibility for Oversight
		<p>closest site that is likely to result in a successful rescue shall be used.</p> <ul style="list-style-type: none"> – <i>Transportation Routes</i>: Transport routes for rescued fish species shall be determined in advance. – <i>Downstream vs. Upstream</i>: Species rescued shall be transported downstream if possible and upstream only for short distances if downstream sites are not feasible. – <i>Disease Consideration</i>: Fish shall not be moved upstream over substantial barriers or long distances upstream to guard against disease transmission. • <i>Salmonids</i>: If salmonids are encountered during relocation, they should be moved upstream to a location of perennial running water or the best available habitat determined by a qualified biologist. Collection and transport methods shall be determined per site conditions. Methods shall also be selected to maximize efficiency of collection effort while minimizing handling and transport time and stress. Creek water from the site shall be used in all containers. Local transport of fish may be executed by various methods including: <ul style="list-style-type: none"> – <i>Net transfer</i>: Appropriate for short distances where rapid transfer is possible. – <i>Live car</i>: Appropriate for temporary holding in stream and short distances where rapid transfer is required. – <i>Bucket</i>: Appropriate for temporary holding and transport over short-medium distances. Holding time should be minimized if possible or supplemental aeration supplied. 			

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		<ul style="list-style-type: none"> – <i>Aerated cooler</i>: Appropriate for temporary holding and transport of long distances. Temperature shall be maintained similar to source creek water, and if necessary fish shall be sorted by size to reduce risk of predation. • Prioritization of species and collection/relocation sites to be prioritized as follows: <ul style="list-style-type: none"> – Endangered species – Threatened species – Species of special concern – Native fishes not under the above categories – Non-native fishes if appropriate • Notify Resource Agencies: Identify a point person to contact at appropriate resource agencies (CDFW, NMFS, and USFWS). At least 24 hours in advance, notify appropriate resource agencies to communicate the details of the fish relocation and to confirm disposition instructions. • Fish relocation shall be conducted in concurrence with the following conditions: <ul style="list-style-type: none"> – <i>Setup</i>: Upon arrival at the site, review the operational sequence and logistics and designate field assignments. Conduct a review of safety and operational methods. – <i>Live well Operation</i>: If necessary, set up live wells early in the operation in order to stabilize tank conditions. • Use local “native” water to fill live wells if available and clean 			

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		<ul style="list-style-type: none"> To lessen stress on fish, reduce or manage temperature in live wells to be compatible with the water temperatures in which the fish were encountered. Start the aeration system prior to placing fish into the live well to ensure that sufficient oxygen is present during the adjustment period. When salmonids are placed in the live well, managed the live well to the extent possible so that the dissolved oxygen concentration shall be greater than 6 mg/l but less than saturation. <ul style="list-style-type: none"> <i>Electrofishing Operation:</i> Adjust the electrofishing unit settings to the conductivity and temperature of the water. Adjust setting for either varying width (wide to narrow) or varying frequency (high to low) to minimize possible fish injury when these settings elicit proper taxis for fish capture. Record the settings used and any incidental electrofishing mortalities in the field notebook. If electrofishing mortalities for salmonids and other species listed as threatened or endangered exceed 5% of the total capture, electrofishing activities shall be reevaluated and possibly terminated. Note fish other than salmonids that are mortalities from electrofishing activities shall be used as an indicator of possible injury or mortality rate to salmonids and other fish. <ul style="list-style-type: none"> <i>General Collection Guidelines:</i> Execute collection of fish in a manner to minimize handling time and stress, yet maintain the safety of personnel. Use multiple buckets and/or live cars to reduce crowding during collection and transfer. 			

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		<ul style="list-style-type: none"> • Pre-sort fish as needed for transport. • Equip buckets that hold salmonids with portable aerators until subsequent transfer to a live well. <ul style="list-style-type: none"> – <i>Transport</i>: Transport fish to minimize holding time an alternately sequenced in tandem with ongoing collection activities. • Continue normal live well operations during transport. <ul style="list-style-type: none"> – <i>Records and Data</i>: Inventory fish and record other pertinent data, including species, numbers of each species, disposition, and other data such as fork length. If conditions preclude a complete inventory, at a minimum, document species present, their disposition, and an estimate of their abundance. • Record information on ambient site conditions (available habitat/water quality), including photo documentation at collection and release sites, as appropriate and other information on collection, handling, and transport. • At completion, conduct an assessment of the fish relocation to identify lessons learned, estimate the number of individual fish and fish species moved and determine the mortality rate. Report shall be forward to the appropriate resource agencies and interested parties. 			
5.E: Cumulative loss of special-status native fish species and their aquatic habitat during construction and operations.	3.E-1	Implement Mitigation Measure 3.E-1: <i>Native Fish Capture and Relocation</i> .			

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CULTURAL RESOURCES AND TRIBAL CULTURAL RESOURCES					
3.F-1: The Project would cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5, human remains, including those interred outside of formal cemeteries, or a tribal cultural resource as defined in PRC Section 21074.	3.F-1a	<p><i>Preconstruction Training and Cultural Resources Monitoring.</i> Prior to construction, a qualified archaeologist shall prepare a cultural resources monitoring plan. The District shall review and approve the plan. The plan shall include a requirement for monitoring of construction activities within 200 feet of archaeological sites CA-SCL-402 and CA-SCL-182 by a qualified archaeologist and, if reasonably available, a Native American representative. The plan shall include (but not be limited to) the following components:</p> <ul style="list-style-type: none"> • A training program for all construction and field workers involved in site disturbance that would be completed prior to the commencement of construction activities and that would train site workers in the identification of cultural resources, and actions to be undertaken in the event that cultural resources are discovered; • The identification of person(s) responsible for conducting monitoring activities, including Native American monitors; • The identification of person(s) responsible for overseeing and directing the monitors; • Monitoring protocols and procedures, including the ability of the monitor to stop work within 100 feet of the find, and the required format and content of monitoring reports; • The schedule for submittal of monitoring reports and identification of person(s) responsible for review and approval of monitoring reports; • A protocol for notifications in the event cultural resources are encountered, as well as methods of avoiding or minimizing impacts to the encountered 	<p>Prepare a cultural resources Monitoring Plan, prior to construction activities.</p> <p>Adhere to the Plan, during construction.</p>	The construction contractor and/or Valley Water	Valley Water

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		<p>resources (e.g., collection, identification, curation) consistent with CEQA Guidelines Section 15126.4(b)(3);</p> <ul style="list-style-type: none"> • Methods to ensure the security of cultural resources sites; and • A protocol for notifying local authorities (i.e. Sheriff, Police) should site looting and other illegal activities occur during construction. <p>During the course of the construction monitoring, the archaeologist may adjust the frequency, from continuous to intermittent, of the monitoring based on the conditions and professional judgment regarding the potential to impact resources.</p>			
	3.F-1b	<p><i>Accidental Discovery of Archaeological Artifacts, Tribal Cultural Resources, or Burial Remains.</i> If historical or unique archaeological artifacts (including potential tribal resources) are accidentally discovered during construction, the District shall restrict work in affected areas until proper protocols are met. Work at the location of the find will halt immediately within 30 feet of the find. A “no work” zone shall be established utilizing appropriate flagging to delineate the boundary of this zone. A Consulting Archaeologist will visit the discovery site as soon as practicable for identification and evaluation pursuant to Section 21083.2 of the Public Resources Code and Section 15126.4 of the California Code of Regulations. If the archaeologist determines that the artifact is not significant, construction may resume. If the archaeologist determines that the artifact is significant, the archaeologist will determine if the artifact can be avoided and, if so, will detail avoidance procedures. If the artifact cannot be avoided, the archaeologist will develop within 48 hours an Action Plan which will include provisions to minimize impacts and, if required, a Data Recovery Plan for recovery</p>	During construction	The construction contractor and/or Valley Water	Valley Water

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		<p>of artifacts in accordance with Public Resources Code Section 21083.2 and Section 15126.4 of the CEQA Guidelines. Impacts to tribal cultural resources shall be assessed in consultation with culturally-affiliated Native American tribes.</p> <p>If burial finds are accidentally discovered during construction, work in affected areas will be restricted or stopped until proper protocols are met. Upon discovering any burial site as evidenced by human skeletal remains, the County Coroner will be immediately notified and the field crew supervisor shall take immediate steps to secure and protect such remains from vandalism during periods when work crews are absent. No further excavation or disturbance within 30 feet of the site or any nearby area reasonably suspected to overlie adjacent remains may be made except as authorized by the County Coroner, California Native American Heritage Commission, and/or the County Coordinator of Indian Affairs.</p>			
5.F: Cumulative increase in impacts on archaeological, paleontological, historical resources, and tribal cultural resources.	3.F-1a 3.F-1b	<p>Implement Mitigation Measure 3.F-1a: <i>Preconstruction Training and Cultural Resource Monitoring.</i></p> <p>Implement Mitigation Measure 3.F-1b: <i>Accidental Discovery of Archaeological Artifacts or Burial Remains.</i></p>			
ENERGY					
3.G-1: The Project would result in wasteful, inefficient, or unnecessary consumption of energy resources during Project construction or operation.	3.C-1b	Implement Mitigation Measure 3.C-1b : <i>BAAQMD Basic Construction Mitigation Measures.</i>			

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5.G: Cumulative environmental impacts due to wasteful, inefficient, or unnecessary consumption of energy resources.	3.C-1b	Implement Mitigation Measure 3.C-1b : <i>BAAQMD Basic Construction Mitigation Measures.</i>			
HYDROLOGY AND WATER QUALITY					
3.K-1: The Project would violate water quality standards or waste discharge requirements, conflict with or obstruct implementation of the Basin Plan, or otherwise substantially degrade surface or groundwater quality.	3.K-1	<i>Monitor and Manage the Quality of Lake Discharges to Creek.</i> The District and/or its contractor(s) shall monitor the quality of water discharged during drawdown of Almaden Lake during Project construction. Initially, water quality shall be tested for turbidity daily during discharge, or as required under the RWQCB Section 401 Water Quality Certification and/or Waste Discharge Permit obtained for the Project. When the lake reaches 10% of its capacity volume, the District shall monitor water quality at least hourly until direct discharge to Alamos Creek ceases. Monitoring shall be completed in the field using portable equipment. If turbidity concentrations in excess of 500 NTU are detected or as indicated in the Permit, waters shall be treated by filtration (filter or media filtration), settlement, or other non-chemical means to remove sediment prior to discharge. Removed sediment shall be tested for mercury concentration, and disposed of in accordance with applicable requirements / regulations. If a dewatering permit from the RWQCB is required, water quality monitoring requirements identified here may overlap with permit requirements. In such a case, monitoring requirements under this mitigation measure could be reduced only to avoid duplicative sampling and analysis.	Monitor, during construction	The construction contractor and/or Valley Water	Valley Water

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3.K-3: The Project would substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces.	3.K-3	<i>Final Siting of Sheet Pile System.</i> Prior to the initiation of construction, the District and/or its contractors shall determine the final siting of the temporary sheet pile system based on a hydrologic assessment during design. The design shall site all proposed sheet piles needed for Project construction to ensure that sufficient capacity would be available in the temporary creek system to convey up to a 100-year storm event (i.e., approximately 8,250 cfs).	Prior to construction activities.	The construction contractor and/or Valley Water	Valley Water
5.K Cumulative releases of water and sediments containing elevated mercury levels, in combination with historic mining activities in the watershed, could contribute to downstream water quality degradation.	3.K.1	Implement Mitigation Measure 3.K-1: <i>Monitor and Manage the Quality of Lake Discharges to Creek.</i>	Monitor, during construction	The construction contractor and/or Valley Water	Valley Water
NOISE					
3.L-1: The Project would 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.	3.L-1	<i>Construction Noise Logistics Plan.</i> The District and/or its contractors shall develop and adhere to a Construction Noise Logistics Plan, in accordance with General Plan Policy EC-1.7. The Plan will specify hours of construction, noise and vibration minimization measures (e.g., use of exhaust mufflers, use of and hydraulically or electrically powered equipment, and use of noise shields, blankets, and/or enclosures), provide for / require posting and notification of residences within 500 feet of the construction site of construction schedules, and designate a noise disturbance coordinator to respond to neighborhood complaints during construction. The noise disturbance coordinator shall ensure that the Plan is implemented, and shall be available to respond to complaints during all construction work hours. All construction activities	Develop the Plan, prior to construction activities. Adhere to the Plan, during construction.	The construction contractor and/or Valley Water	Valley Water

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		conducted within 500 feet of a residence shall be completed between the hours of 7:00 a.m. and 7:00 p.m., on weekdays; or Saturdays if permitted by the City. The Plan shall include a provision restricting all Project-related construction traffic to the site via the Guadalupe River Trail north of Almaden Lake Village to worker vehicles only (i.e., no haul truck access) and a provision restricting hourly truck trips along Winfield Boulevard, south of Coleman Road, to no more than 70 trips per hour.			
5.L: Cumulative increases in noise and vibration in the Project area.	3.L-1	Implement Mitigation Measure 3.L-1: <i>Construction Noise Logistics Plan</i> .	Develop the Plan, prior to construction activities. Adhere to the Plan, during construction.	The construction contractor and/or Valley Water	Valley Water