

Staff Report 21

APPLICANT:

Central Valley Flood Protection Board

PROPOSED ACTION:

Issuance of Two General Leases – Public Agency Use

AREA, LAND TYPE, AND LOCATION:

APPLICATION 2402: Approximately 8.85 acres of sovereign land located in the American River, adjacent to Paradise Beach; Sacramento, Sacramento County.

APPLICATION 2715: Approximately 3.85 acres of sovereign land located in the American River, adjacent to Glenn Hall Park, Sacramento, Sacramento County.

AUTHORIZED USE:

APPLICATION 2402: Use and maintenance of existing levee erosion control repair sites not previously authorized by the Commission; construction of planting benches and riprap bank protection; and temporary staging area. Part of the American River Common Features (ARCF) Site 2-1 erosion control Project.

APPLICATION 2715: Construction, use, and maintenance of mitigation site activities, including a mitigation planting area, temporary construction access, and irrigation system, related to the ARCF Site 2-1 erosion control Project.

TERM:

20 years, beginning June 29, 2021.

CONSIDERATION:

Public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

SPECIFIC LEASE PROVISIONS:

- Lessee shall place warning signage or buoys, or both, clearly visible from the shore and in the water, both upstream and downstream of the construction site, to provide notice of the Project and to advise the public to exercise caution. Lessee shall place and maintain such signage during the term of the Project and shall notify the California Department of Parks and Recreation's Division of Boating and Waterways of the location, description, and purpose of such signage upon the installation and removal.
- Provisions requiring Lessee to comply with certain safety and construction standards.

BACKGROUND:

Following extensive flooding in 1986, and severe impacts to Sacramento's levee system, Congress directed the U.S. Army Corps of Engineers (USACE) to investigate additional means to reduce flood risk to the city of Sacramento. USACE completed this investigation in 1991, recommending levee improvements downstream of Folsom Dam. As a result of subsequent studies, the American River Common Features Project (ARCF) was authorized in the Water Resources Development Act of 1996, Pub. L. No. 104-303, § 101(a)(1) (WRDA 1996).

Major components of the ARCF within WRDA 1996 included construction of seepage remediation along approximately 22 miles of American River levees, levee strengthening, and the raising of 12 miles of the Sacramento River levee in the Natomas Basin. Over time, the ARCF Project has expanded and in 2016 an extensive program of levee strengthening and erosion repair along the Sacramento and American rivers was analyzed in the American River Watershed Common Features General Reevaluation Report (ARCF GRR) Environmental Impact Statement/Environmental Impact Report (EIS/EIR).

The ARCF GRR EIS/EIR analyzed basic erosion protection measures over 11 miles of the Lower American River, however, some elements of those improvements (e.g., specifics of location and designs, staging areas, haul routes, disposal of soil, and off-site mitigation) were not analyzed because their design had not sufficiently progressed to provide the specificity required for project implementation. Through project design and refinement, USACE has now identified specific locations and design improvements to address erosion concerns, potential staging areas, haul routes, disposal sites, and off-site mitigation for the proposed work. On May 29, 2021, the Central Valley Flood Control Board certified a Supplement Environmental Assessment/EIR (EA/EIR) that analyzes the environmental impact of levee repair and

control work (A2402), along with mitigation site activities (A2715), on State sovereign land in the American River, identified as Project Site 2-1 (Project location).

PROJECT DESCRIPTION:

APPLICATION 2402: The proposed Project location extends along the left descending bank from approximately River Mile (RM) 5.1 upstream to RM 6.6 and comprises two distinct sections. The downstream section extending from Glenn Hall Park to the upstream end of Paradise Beach at RM 5.9 and would include approximately 1,900 feet of bank protection in the form of riprap placed along the waterside levee slope extending and connecting to a buried launchable rock trench, which is setback a considerable distance from the active shoreline.

The second portion of the proposed Project Site 2-1 extends from Paradise Beach at RM 5.9 to the upstream terminus of the improvements at RM 6.6 and is an area where the levee is very close to the shoreline. This section would include riprap bank protection along the waterside slope of the levee that would transition downward into a planting bench along the shoreline, supported by a submerged launchable riprap toe (see Exhibit B).

APPLICATION 2715: The proposed mitigation site is located adjacent to Glenn Hall Park at RM 4.9 of the American River. The proposed use of the location includes removal of non-native plants and site regrading to allow for drainage and preparation for plantings. The planting mix would include several native riparian and upland plant species, which include valley oak, boxelder, Fremont cottonwood, riparian shrubs and grasses; and would be consistent with U.S. Fish and Wildlife Service guidelines for valley elderberry longhorn beetle mitigation and the American River Parkway Plan list of approved plants.

The mitigation site would require temporary access for initial ground preparation and mitigation site establishment activities with permanent access for long-term maintenance. Temporary activities include access to the river for irrigation water and deer fence installation, which would only be required during the establishment period. A temporary staging area would also be established to house an 8-foot by 16-foot storage container, a portable toilet, and a wash station. All temporary staging materials will be removed upon completion of the project.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

In November 2019, the Central Valley Flood Protection Board (CVFPB) applied for a General Lease – Public Agency Use for Subreach 2 of the ARCF Site 2-1 (Application A2402) and, for authorization of additional mitigation activities associated with Site 2-1, in an area located adjacent to Glenn Hall Park on the south side of the American River at RM 4.9 (Application A2715).

The ARCF GRR Final EIS/EIR and Supplemental EA/EIR includes mitigation of impacts on vegetation within the American River Parkway. The adopted mitigation measures include transplantation of elderberry shrubs and, if needed, planting of compensation vegetation to account for the loss of vegetation from construction of erosion protection features (A2715).

The planting bench (A2402), beyond performing erosion control, would provide on-site mitigation for juvenile salmonids contributing to their foraging and refuge requirements within the nearshore aquatic habitat known as shaded riverine aquatic habitat. The planting benches would provide adequate soil volume in a soil-filled trench to establish native tree species as required for on-site mitigation. Each planting bench slopes both waterward to the toe of the planting bench and downstream to an alcove. The planting bench slopes provide shoreline variability to allow for a diverse planting palette and design resiliency to provide habitat and refuge at a range of seasonal flows.

The purpose of the ARCF GRR project is to reduce the overall flood risk within the city of Sacramento and surrounding areas. The Applicant has identified numerous objectives associated with the Project. The repairs are intended to reduce the likelihood of an erosion caused levee breach prior to overtopping and maximize public safety from flood risk. Consistent with the American River Parkway Plan and the State and Federal Wild and Scenic Rivers Acts, the Project includes a revegetation program that screens the project from public view, provides for a naturalistic appearance of the site, and restores affected habitat values. Impacts to roadway and major utility infrastructure will be minimized to the extent practicable. Impacts to parkway infrastructure will also be minimized. Both the National Marine Fisheries Service and the U.S. Fish and Wildlife Service issued Biological Opinions for the ARCF GRR EIS/EIR. Both Biological Opinions include

several Conservation Measures, Reasonable and Prudent Measures, and Terms and Conditions which are implemented into the Project.

The Supplemental EA/EIR identified significant environmental impacts created by the Project that are within the Commission's jurisdiction, in the following resources areas:

- Visual Resources
- Hydrology and Water Quality
- Vegetation and Wildlife
- Fisheries
- Special Status Species
- Cultural Resources
- Air Quality
- Green House Gases
- Noise
- Recreation
- Hazards and Hazardous Materials

Through the implementation of Mitigation Measures all but three resource areas with significant impacts will be mitigated to a less than significant level. Significant and unavoidable impacts to Visual Resources, Vegetation and Wildlife, and Recreation would result from project implementation. Although mitigation was included to reduce impacts to Vegetation and Wildlife and Recreation, the impacts could not be reduced to a less than significant level. For Visual Resources, CVFCB found that there were no other feasible mitigation measures available to avoid or reduce the impact (see Exhibit D, attached)

The entire construction period is anticipated to take approximately 1.5 years. Construction is expected to begin with removal of trees and shrubs. Mobilization of construction equipment, site preparation, and construction would begin approximately in July 2022 and should take approximately 7 months to complete, with the last 6 months of post-construction related work (e.g., plantings, irrigation, stormwater control monitoring).

Recreational access to the banks at Site 2-1 would be completely restricted during the construction period due to construction activities and potential hazards to recreationists. No fishing, swimming, or boating would be possible at the site. While bike trails and running paths could be rerouted or accessible a short distance away from the construction sites, there would still be an overall reduction in the recreation quality with the construction over a 1.5-year period or longer.

These access restrictions, while extensive within the construction area, are temporary, lasting for the duration of the Project. Recreational opportunities remain available at Paradise Beach outside the Project Area and at adjacent parks along the American River Parkway.

Overall, the Project seeks to protect public safety and the region's water conveyance system by ensuring the integrity of the regional levee system, while reestablishing native vegetation along portions of the American River Parkway. These activities preserve Public Trust resources and are therefore consistent with the Public Trust Doctrine and is in the best interests of the State.

CLIMATE CHANGE:

The purpose of the Project is to reduce risks of levee failure related to seepage, under seepage, and levee stability as well as provide mitigation activities associated with Site 2-1. The project area is located in a portion of the American River that is not tidally influenced and, therefore, would not be subject to sea-level rise. However, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms. In rivers, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris as well as decreased bank stability and structure. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time.

The Project area was identified as having the highest degree of potential failure during high-flow events due to erosion and seepage. The proposed work at Site 2-1 comprises the installation of approximately 5,500 linear feet of erosion protection and on-site riparian habitat features along the Lower American River including riprap bank protection, planting benches, and rock tiebacks that would be used to reduce the potential for future erosion. The Project would strengthen the levee system along the Lower American River and would reduce the potential risk of levee failure from erosion, reducing the risk of a catastrophic flood event within the Sacramento metropolitan area due to climate change.

The Project would include riparian plantings on upland along the American River. In addition, watering of the plantings would be conducted by connecting a pump to pipelines placed in the river. Neither the upland plantings nor the temporary waterlines are anticipated to be significantly affected by climate change.

CONCLUSION:

For all the reasons above, staff believes the proposed lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" and "Leading Climate Activism" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. An EIS/EIR) and Supplemental EA/EIR, State Clearinghouse No. 2005072046, were prepared for this project by the CVFPB and certified on June 9, 2016, and May 28, 2021, respectively. As part of its project approval, the CVFPB made Findings and Statement of Overriding Considerations and adopted a Mitigation Monitoring and Reporting Plan.

Staff has reviewed these documents and prepared an independent Mitigation Monitoring Program (attached, Exhibit C) that incorporates the CVFPB's document. Staff recommends adoption of Exhibit C by the Commission.

Staff also prepared Findings made in conformance with the State California Environmental Quality Act (CEQA) Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15096) contained in the attached Exhibit D. The Findings determined that all but three potential impacts would be less than significant or less than significant with mitigation. The Findings identified that the Project could cause potentially significant impacts to Visual Resources, Vegetation and Wildlife, and Recreation due to project implementation, despite mitigation measures. Staff prepared a Statement of Overriding Considerations made pursuant to the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15093) that balances the benefits of the project against its unavoidable impacts and finds that the potential impact is acceptable in light of the Project benefits. Staff recommends the Commission adopt the Findings and Statement of Overriding Considerations contained in the attached Exhibit D.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

California Department of Fish and Wildlife
Central Valley Regional Water Quality Control Board
U.S. Army Corps of Engineers
U.S. Fish and Wildlife Service
National Marine Fisheries Service
Sacramento Area Flood Control Agency

EXHIBITS:

- A. Land Descriptions
- B. Site and Location Maps
- C. Mitigation Monitoring Program
- D. Findings and Statement of Overriding Considerations

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an EIS/EIR and Supplemental EA/EIR, State Clearinghouse No. 2005072046, were prepared for this project by the CVFPB and certified on June 9, 2016, and May 28, 2021, respectively, and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program, as contained in the attached Exhibit C.

Adopt the Findings, made in conformance with California Code of Regulations, title 14, sections 15091 and 15096, subdivision (h), as contained in the attached Exhibit D.

Adopt the Statement of Overriding Considerations made in conformance with California Code of Regulations, title 14, section 15093, as contained in the attached Exhibit D.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the issuance of the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. APPLICATION 2402: Authorize issuance of a General Lease – Public Agency Use to the Applicant, beginning June 29, 2021, for a term of 20 years, for construction, use, and maintenance of existing levee erosion control repair sites, planting benches, and riprap bank protection described in Exhibit A (for reference purposes only) and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right, at any time, to set a monetary rent as specified in the lease if the Commission finds such action to be in the State's best interests.
2. APPLICATION 2715: Authorize issuance of a General Lease – Public Agency Use to the Applicant, beginning June 29, 2021, for a term of 20 years, for construction, use, and maintenance of mitigation site activities, including a mitigation planting area, temporary construction access, and irrigation system, described in Exhibit A (for reference purposes only) and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right, at any time, to set a monetary rent as specified in the lease if the Commission finds such action to be in the State's best interests.

EXHIBIT A
LAND DESCRIPTION

All that real property situate in the City of Sacramento, County of Sacramento, State of California, being a portion of the sovereign lands of the State of California lying within the navigable waters of the American River, a portion of the boundaries of said lands being established by adjudication on July 22, 1949 in Book 109 of Judgements, at Page 419, Sacramento County Records, said action also being referred to as "Boundary Line Agreement 6" (BLA-6) within the records of the California State Lands Commission, said real property being further described as follows:

BEGINNING at a point on the left bank of the American River, said point being the most southerly point on the agreed common boundary line as said line is defined in said Judgement and BLA-6, said point lying South 43° 56' 08" East 1,267.10 feet from a 3 ½" aluminum disc in monument well stamped "CORPS OF ENGINEERS SACRAMENTO DISTRICT" and designated "ARS-18" on that certain Record of Survey entitled "GPS Static Survey", recorded in Book 92 of Surveys at Page 7, Sacramento County Records, thence northerly along said agreed common boundary line the following eight (8) courses;

1. North 07°55'18" East 305.68 feet;
2. North 11°11'18" East 290.16 feet;
3. North 11°33'38" East 248.28 feet;
4. North 01°08'48" East 196.51 feet;
5. North 17°24'12" West 74.99 feet;
6. North 10°45'12" West 125.26 feet;
7. North 10°51'39" West 582.10 feet;
8. North 31°21'14" East 28.28 feet to a point thereon;

thence leaving said agreed common boundary line the following twenty-four (24) courses:

1. South 23°55'54" East 120.81 feet;
2. South 16°53'04" East 133.66 feet;
3. South 14°20'37" East 133.50 feet;
4. South 12°00'01" East 117.54 feet;

5. South 12°52'59" East 154.78 feet;
6. South 23°42'24" East 64.36 feet;
7. South 04°58'28" East 189.16 feet;
8. South 00°43'58" West 133.33 feet;
9. South 00°47'36" East 123.12 feet;
10. South 20°34'23" West 169.15 feet;
11. South 04°58'54" West 184.89 feet;
12. South 14°13'42" West 299.83 feet;
13. South 16°58'01" West 158.02 feet;
14. South 10°56'29" West 111.70 feet;
15. South 11°40'20" West 245.88 feet;
16. South 06°25'38" West 224.94 feet;
17. South 08°35'23" West 238.03 feet;
18. South 07°43'09" West 216.74 feet;
19. South 05°36'20" West 152.40 feet;
20. South 01°55'35" West 177.05 feet;
21. South 06°53'53" East 319.81 feet;
22. South 08°11'40" East 209.78 feet;
23. South 09°17'51" East 930.88 feet;
24. South 73°03'15" West 67.24 feet to a point on the boundary of the lands of the State of California, said boundary being the Ordinary Low Water Line; thence northerly along said boundary the following nine (9) course:
 1. North 20°18'16" West 206.89 feet;
 2. North 12°23'03" West 387.00 feet;
 3. North 04°36'06" West 909.93 feet;
 4. North 02°10'47" East 289.21 feet;
 5. North 15°44'20" East 114.28 feet;
 6. North 05°10'16" East 221.90 feet;
 7. North 10°51'11" East 467.36 feet;

8. North $14^{\circ}32'25''$ East 358.48 feet;
9. North $56^{\circ}43'03''$ West 27.68 feet, to the **POINT OF BEGINNING**.

The preceding nine (9) course are along a meander line representing the OLWL and boundary of the State of California, the true boundary is ambulatory and does not have a fixed position as of the date of this description.

The basis of bearings for this description is based on NAD 83, California Coordinate System (CCS83), Zone 2 (2007.00 epoch date) as shown on that certain record of survey of G.P.S. Static Survey filed for record in Book 92, of Surveys, at Page 7, Sacramento County Records. All distances cited herein are grid values. To obtain ground values multiply the distances by 1.0000433.

End of Description



Daniel J. Forgey 4-14-2021
Daniel J. Forgey, CA. LS No. 8303

EXHIBIT A
LAND DESCRIPTION

All that real property situate in the City of Sacramento, County of Sacramento, State of California, being a portion of the sovereign lands of the State of California lying within the navigable waters of the American River, the boundaries of said lands being established by adjudication on July 22, 1949 in Book 109 of Judgements, at Page 419, Sacramento County Records, said action also being referred to as "Boundary Line Agreement 6" (BLA-6) within the records of the California State Lands Commission, said portion being further described as follows:

BEGINNING at a point on the left bank of the American River, said point being on the agreed common boundary line as said line is defined in said Judgement and BLA-6, said point lying North 04° 48' 45" East 1,521.59 feet from a 3 ½" aluminum disc in monument well stamped "CORPS OF ENGINEERS SACRAMENTO DISTRICT" and designated "ARS-17" on that certain Record of Survey entitled "GPS Static Survey", recorded in Book 92 of Surveys at Page 7, Sacramento County Records, thence westerly along said agreed common boundary line the following seven (7) courses:

1. North 83° 45' 22" West 302.70 feet;
2. South 60° 33' 10" West 203.01 feet;
3. South 70° 28' 48" West 107.99 feet;
4. South 34° 26' 58" West 256.61 feet;
5. North 69° 56' 42" West 68.67 feet;
6. South 84° 47' 01" West 111.74 feet;
7. South 81° 03' 18" West 146.52 feet;

thence leaving said agreed common boundary line the following fifteen (15) courses:

1. North 18° 34' 14" East 92.14 feet;
2. North 51° 46' 58" East 89.22 feet;
3. North 35° 56' 58" East 126.15 feet;

4. North 69° 23' 05" East 206.93 feet;
5. North 79° 33' 12" East 72.09 feet;
6. South 77° 42' 26" East 70.17 feet;
7. North 59° 10' 50" East 124.93 feet;
8. North 24° 47' 52" West 155.06 feet;
9. North 84° 12' 40" East 70.77 feet;
10. South 29° 49' 51" East 124.85 feet;
11. North 86° 23' 02" East 130.29 feet;
12. South 76° 58' 46" East 93.86 feet;
13. North 63° 38' 22" East 71.47 feet;
14. South 57° 35' 15" East 72.06 feet;
15. South 48° 57' 09" East 84.45 feet to a point on said agreed common boundary; thence along said agreed common boundary South 66° 38' 03" West 50.45 feet, to the **POINT OF BEGINNING**.

Containing 3.388 acres, more or less.

The basis of bearings for this description is based on NAD 83, California Coordinate System (CCS83), Zone 2 (2007.00 epoch date) as shown on that certain record of survey of G.P.S. Static Survey filed for record in Book 92, of Surveys, at Page 7, Sacramento County Records. All distances cited herein are grid values which are the basis for the areas shown hereon. To obtain ground values multiply the distances by 1.0000433.

End of Description



Daniel J. Forgey 4-14-2021

Daniel J. Forgey, CA. LS No. 8303

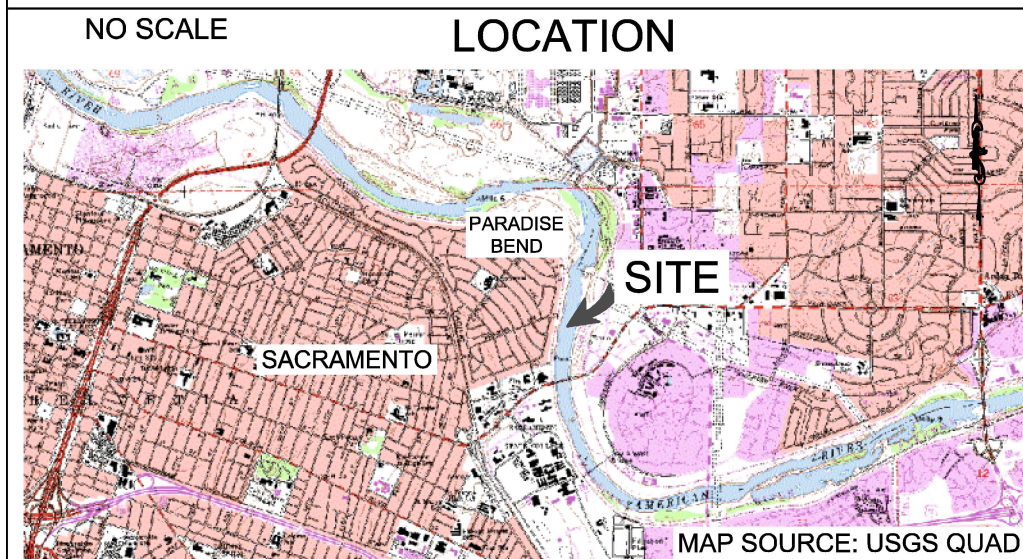
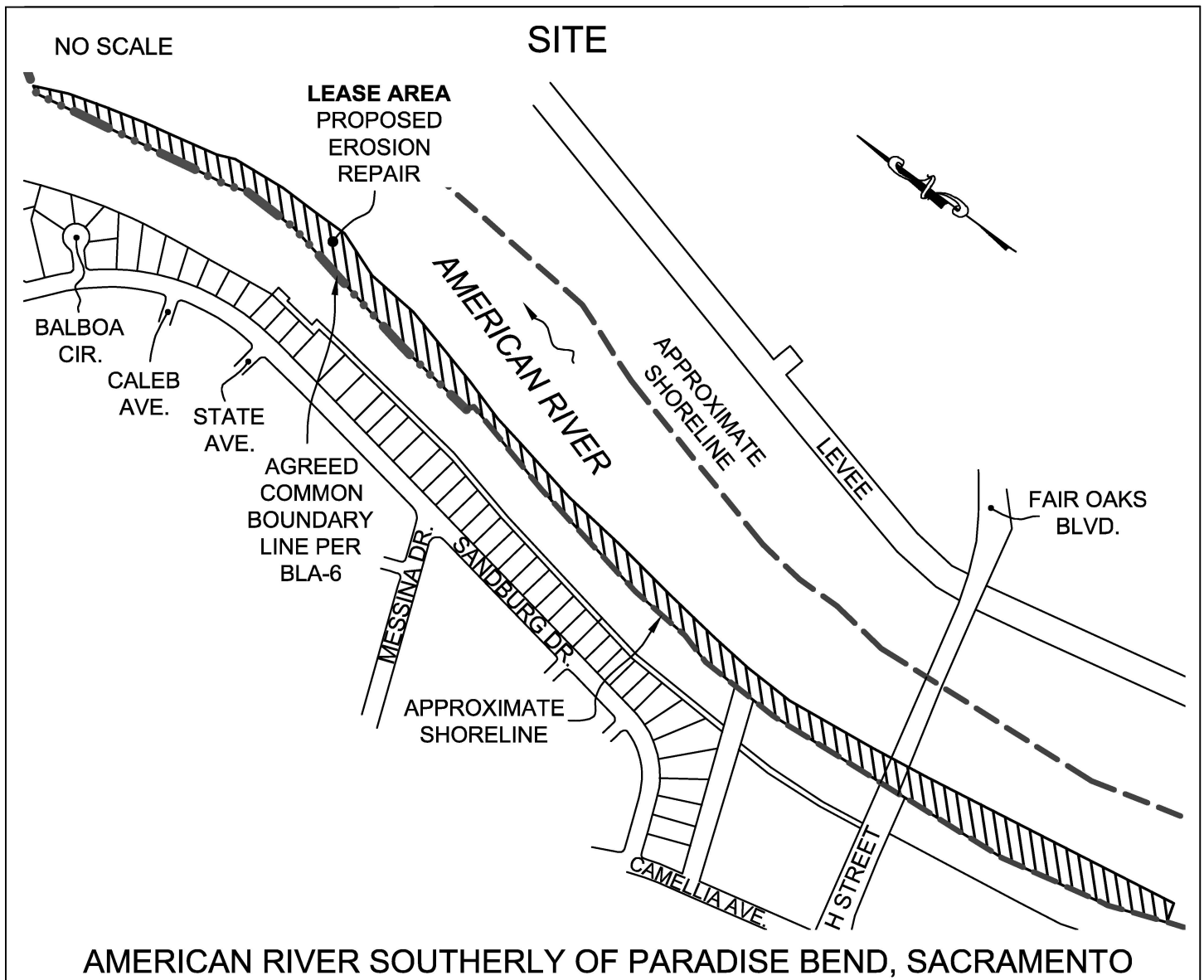


EXHIBIT B

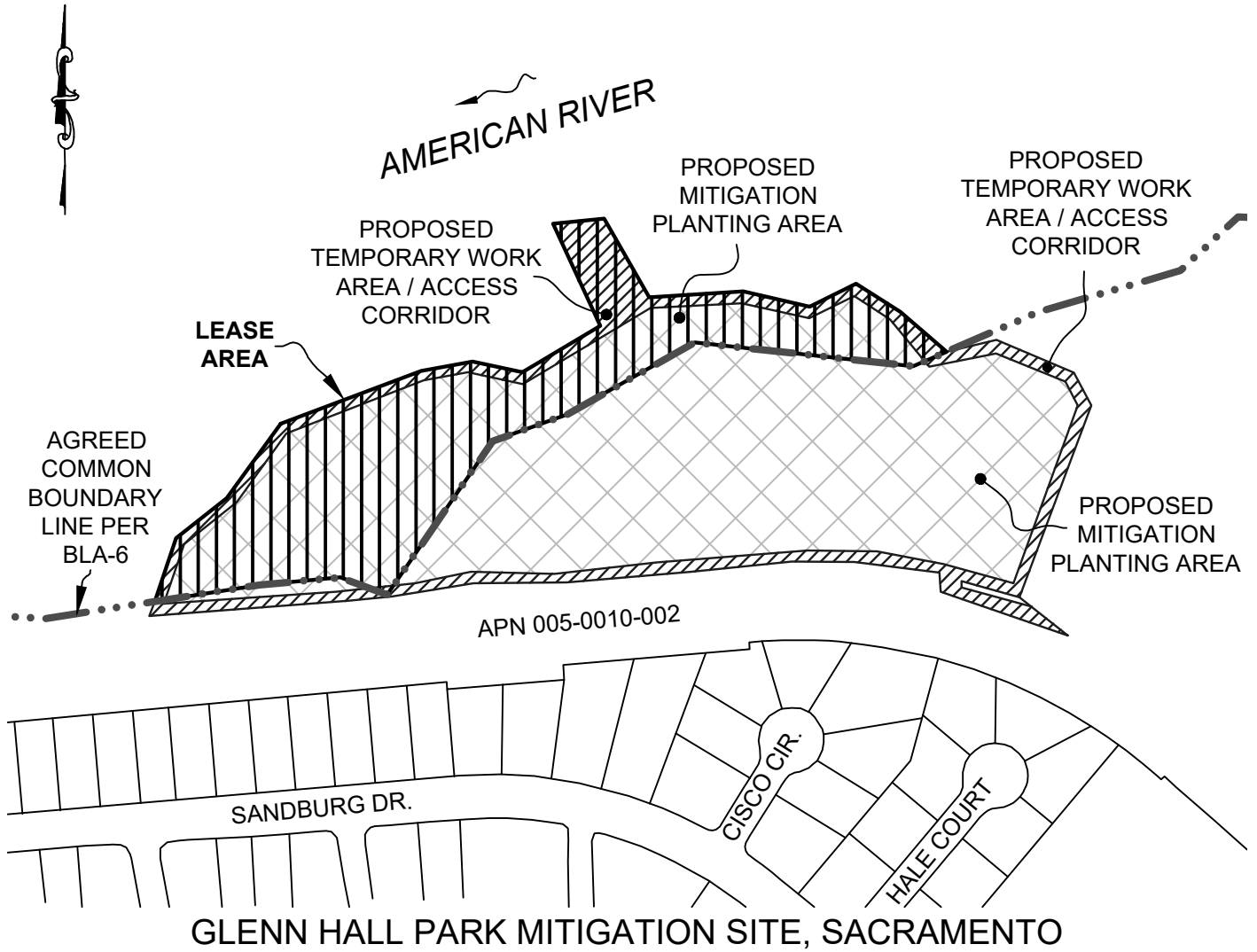
A2402
CENTRAL VALLEY FLOOD
PROTECTION BOARD
GENERAL LEASE -
PUBLIC AGENCY USE
SACRAMENTO COUNTY



THIS EXHIBIT IS SOLELY FOR PURPOSES OF GENERALLY DEFINING THE LEASE PREMISES, IS BASED ON UNVERIFIED INFORMATION PROVIDED BY THE LESSEE OR OTHER PARTIES AND IS NOT INTENDED TO BE, NOR SHALL IT BE CONSTRUED AS, A WAIVER OR LIMITATION OF ANY STATE INTEREST IN THE SUBJECT OR ANY OTHER PROPERTY.

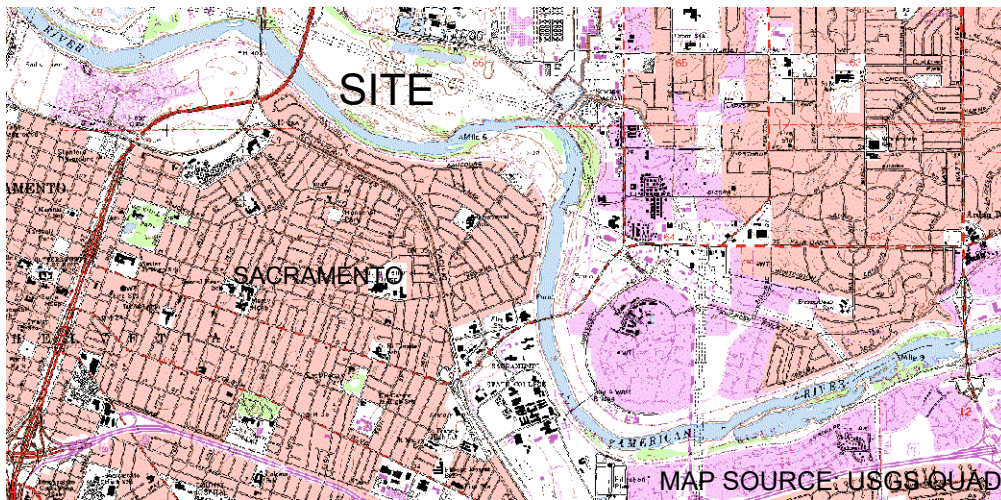
NO SCALE

SITE



NO SCALE

LOCATION



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EXHIBIT B

A2715
CENTRAL VALLEY FLOOD
PROTECTION BOARD
APN 005-0010-002
GENERAL LEASE -
PUBLIC AGENCY USE
SACRAMENTO COUNTY



JWP 4/16/2021

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM

**AMERICAN RIVER WATERSHED COMMON FEATURES, WATER RESOURCES
DEVELOPMENT ACT OF 2016 PROJECT, AMERICAN RIVER CONTRACT 1**
(A2402, State Clearinghouse No. 2005072046)

The California State Lands Commission (Commission or CSLC) is a responsible agency under the California Environmental Quality Act (CEQA) for the American River Watershed Common Features, Water Resources Development Act of 2016 Project, American River Contract 1 (Project). The CEQA lead agency for the Project is the Central Valley Flood Protection Board.

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on Commission lands. The purpose of a MMP is to impose feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). State CEQA Guidelines section 15097, subdivision (a), states in part:¹

In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The lead agency certified an EIR, State Clearinghouse No. 2005072046 on April 22, 2016, and a Supplemental EIR on May 28, 2021, and adopted a Mitigation Monitoring and Reporting Program (MMRP) for both the whole of the Project, and the portion of the Project covered in the Supplemental EIR (see Exhibit C, Attachment C-1). The lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its Program. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table C-1 below. The full text of each mitigation measure, as set forth in the MMRP prepared by the CEQA lead agency and provided in Attachment C-1, is incorporated by reference in this Exhibit C.

¹ The State CEQA Guidelines are found at California Code of Regulations, title 14, section 15000 et seq.

Table C-1. Project Impacts and Applicable Mitigation Measures

Potential Impact	Mitigation Measure (MM) ²	Difference Between CSLC MMP and Lead Agency MMRP
VIS-2	VEG-1, VEG-2, SRA-1	None
VIS-3	VEG-1, VEG-2, SRA-1	None
VIS-4	VIS-1	None
WQ-1	WQ-1	None
VEG-1	VEG-1, VEG-2, BIRD-1	None
VEG-2	VEG-1, VEG-2, BIRD-1	None
FISH-1	FISH-1, FISH-2	None
SSS-2	BIRD-1, VEG-1, VEG-2	None
SSS-4	BIRD-1	None
SSS-10	BIRD-1	None
SSS-11	TURTLE-1, WQ-1	None
SSS-12	BATS-1	None
SSS-13	BATS-1	None
SSS-15	PLANT-1	None
SSS-16	FISH-1, FISH-2, FISH-3, SRA-1	None
SSS-17	FISH-1, FISH-2, FISH-3, SRA-1	None
SSS-18	FISH-1, FISH-2, FISH-3, SRA-1	None
SSS-19	FISH-1, FISH-2, FISH-3, SRA-1	None
CR-1	CR-2, CR-3, CR-4, and CR-5	MM CR-2 (see below)
AQ-1	AQ-1 through AQ-5	None
AQ-2	AQ-2	None
AQ-3	AQ-1 through AQ-4	None
GHG-1	GHG-1	None
NOI-1	NOISE-1, NOISE-2	None
REC-1	REC-1	None
HAZ-1	HAZ-1	None

Addition to MM CR-2: Title to all archaeological sites, and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the Commission. Commission staff shall be notified of any cultural resources or paleontological specimens discovered on lands under the jurisdiction of the Commission. The final disposition of archaeological and historical resources or paleontological specimens from such lands must be approved by the Commission. In addition, if requested by a Tribe, a Native American Monitor shall remain onsite during Project construction.

² See Attachment C-1 for the full text of each MM taken from the MMRP prepared by the CEQA lead agency.

ATTACHMENT C-1

**Mitigation Monitoring and Reporting Program adopted by the
Central Valley Flood Protection Board**

Mitigation Monitoring and Reporting Program

**American River Watershed Common Features, Water
Resources Development Act of 2016 Project, American
River Contract 1**

SCH# 2005072046

Central Valley Flood Protection Board
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May 2021

Abbreviations and Acronyms

APE	Area of Potential Effects
CARB	California Air Resources Board
ARCF	American River Watershed Common Features
BMP	Best Management Practice
BO	Biological Opinion
CCR	Code of California Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CNDDDB	California Natural Diversity Database
CRHR	California Register of Historic Resources
CVFPB	Central Valley Flood Protection Board
EA	Environmental Assessment
EIS	Environmental Impact Statement
EIR	Environmental Impact Report
GHG	Greenhouse gas
GPS	Global Positioning System
GRR	General Reevaluation Report
HMMAMP	Habitat Mitigation Monitoring and Reporting Plan
HPMP	Historic Properties Management Plan
HPTP	Historic Properties Treatment Plan
IWM	Instream Woody Material
MLD	Most Likely Descendent
MMRP	Mitigation, Monitoring, and Reporting Program
NAHC	Native American Heritage Center
NO _x	Oxides of Nitrogen
NTU	Nephelometric Turbidity Unit
NPDES	National Pollutant Discharge Elimination System
PA	Programmatic Agreement
PM	Particulate matter
PM ₁₀	Particulate matter 10 microns or less in diameter
PPV	Peak particle velocity
PRC	Public Resources Code
RWQCB	Regional Water Quality Control Board
SHPO	State Historic Preservation Office
SMAQMD	Sacramento Metropolitan Air Quality Management District
SPCCP	Spill Prevention Control and Countermeasures Plan
SWPPP	Stormwater Pollution Prevention Plan
SWRCB	State Water Resources Control Board
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service
TCR	Tribal Cultural Resource
VELB	Valley Elderberry Longhorn Beetle
VdB	Velocity decibels

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Mitigation Monitoring and Reporting Program

Section 21081.6(a)(1) of the California Public Resources Code (PRC) and Section 15097 of the State CEQA Guidelines require a public agency to adopt a reporting and monitoring program on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental impacts on the physical environment.

This Mitigation Monitoring and Reporting Program (MMRP) will be used by the Central Valley Flood Protection Board (CVFPB) to ensure the successful implementation of the mitigation measures identified in the Final Supplemental Environmental Assessment/Environmental Impact Report (EA/EIR) for the American River Watershed Common Features (ARCF) Water Resources Development Act of 2016 Project, American River Contract 1 (American River Contract 1 Project). All appropriate mitigation measures, including measures from the ARCF General Reevaluation Report (GRR) Final Environmental Impact Statement (EIS)/EIR, have been incorporated into the Final Supplemental EA/EIR.

The MMRP is in tabular format. The table columns contain the following information:

Mitigation Number: Lists the mitigation measures by number, as designated in the Final Supplemental EA/EIR.

Mitigation Measure: Provides the text of the mitigation measures, each of which has been adopted and incorporated into the American River Contract 1 Project.

Implementation Timing: Lists the time frame in which the mitigation measure is expected to take place. The following abbreviations are used in the table:

D: To be implemented or included as part of American River Contract 1 Project design. Includes pre-Project permitting and agency coordination

P: To be implemented prior to construction being initiated prior (pre-construction), but not part of project design or permitting

C: To be implemented during American River Contract 1 Project construction

M: To be implemented as ongoing maintenance after construction is complete

Implementation Responsibility: Identifies the entity responsible for implementing the mitigation measure.

Responsible for Monitoring/Reporting Action: Identifies the entity responsible for monitoring implementation of the actions described in the mitigation measures. Verification will be carried out during the American River Contract 1 Project and an MMRP completion report will be submitted to CVFPB staff upon implementation of all mitigation measures.

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
VIS-1	Shield Temporary Nighttime Lighting: The U.S. Army Corps of Engineers (USACE) will require its construction contractors to ensure that all temporary lighting related to security of the staging areas to be shielded or directed to avoid or minimize any direct illumination onto light-sensitive receptors located outside of the Project Area.	C	USACE	CVFPB
WQ-1	<p>Prepare and Implement a Storm Water Pollution Prevention Plan, Spill Prevention Control and Countermeasures Plan, and Associated Best Management Practices: As part of a turbidity monitoring program, the USACE contractor(s) will monitor turbidity in the adjacent water bodies, where applicable criteria apply, to determine whether turbidity is being affected by construction and to ensure that construction does not result in a rise in turbidity levels above ambient conditions, in accordance with the Central Valley Regional Water Quality Control Board (RWQCB) Basin Plan turbidity objectives. The monitoring program will be coordinated with the Central Valley RWQCB prior to construction and will be implemented by the construction contractor. The contractor will be required to use Best Management Practices (BMPs), as described below, to prevent runoff from all construction areas. Environmental commitments included in the project to reduce the potential for impacts on water quality include preparation of the Storm Water Pollution Prevention Plan (SWPPP), and Spill Prevention Control and Countermeasures Plan (SPCCP).</p> <p>Typical elements of the SWPPP are described below. In general, the following measures will be implemented as part of the SWPPP, as required by the State Water Resources Control Board (SWRCB) for any construction activities that disturb more than 1 acre, to limit erosion potential.</p> <ul style="list-style-type: none"> • Conduct earthwork during low-flow periods (e.g., approximately May 1 through November 30). • To the extent possible, stage construction equipment and materials on the landside of the subject levee reaches in areas that have already been disturbed. • Minimize ground and vegetation disturbance during project construction by establishing designated equipment staging areas, ingress and egress corridors, spoils disposal and soil stockpile areas, and equipment exclusion zones prior to the commencement of any grading operations. • Install sediment barriers (e.g., silt fences, fiber rolls, and straw bales) around the base of soil stockpiles to intercept runoff and sediment during storm events. If necessary, cover stockpiles with geotextile fabric to provide further protection against wind and water erosion. Stockpiling soil on the landside of the levee is not practical at Site 2-1. • Install sediment barriers on graded or otherwise disturbed slopes as needed to prevent sediment from leaving the project site and entering nearby surface waters. • Install plant materials to stabilize cut and fill slopes and other disturbed areas once construction is complete. Plant materials could include an erosion 	D, P, C	USACE	CVFPB

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	<p>control seed mixture or shrub and tree container stock. Temporary structural BMPs, such as sediment barriers, erosion control blankets, mulch, and mulch tackifier, could be installed as needed to stabilize disturbed areas until vegetation becomes established.</p> <ul style="list-style-type: none"> • During working hours, the construction activity will not cause the turbidity in the adjacent water body down current from the construction sites to exceed the Basin Plan turbidity objectives. Specifically, where natural turbidity is between 0 and 5 nephelometric turbidity units (NTUs), increases will not exceed 1 NTU; where natural turbidity is between 5 and 50 NTUs, increases will not exceed 20 percent; where natural turbidity is between 50 and 100 NTUs, increases will not exceed 10 NTUs; and where natural turbidity is greater than 100 NTUs, increases will not exceed 10 percent. In determining compliance with these limits, appropriate averaging periods could be applied, provided that beneficial uses will be fully protected. • An SPCCP is intended to prevent any discharge of oil into navigable water or adjoining shorelines. The contractor will develop and implement an SPCCP to minimize the potential for adverse effects from spills of hazardous, toxic, or petroleum substances during construction and operation activities. The SPCCP will be completed before any construction activities begin. • Implementation of this measure will comply with State and Federal water quality regulations. The SPCCP will describe spill sources and spill pathways in addition to the actions that will be taken in the event of a spill (e.g., an oil spill from engine refueling will be immediately cleaned up with oil absorbents). The SPCCP will outline descriptions of containment facilities and practices such as double-walled tanks, containment berms, emergency shut-offs, drip pans, fueling procedures, and spill response kits. It will also describe how and when employees are trained in proper handling procedure and spill prevention and response procedures. Release of contaminants into adjacent water bodies could result in significant effects. 			
VEG-1	<p>Retain, Protect, and Plant Trees On-Site: Project designs will be refined to reduce impacts on vegetation and wildlife to the extent practicable. Refinements implemented to reduce the loss of riparian habitat will include reducing the impact footprint, constructing bank protection rather than launchable rock trench whenever feasible, and designing planting benches. Where practicable, trees will be retained in locations where the bank protection and planting bench are constructed. Trees will be protected in place along the natural channel during the placement of rock. Additional plantings will be installed on the newly constructed bench to provide habitat for fish and avian species. The planting bench will be used where practicable to minimize impacts on fish and wildlife species. The on-site habitat will be created in accordance with the ARCF GRR Habitat Mitigation Monitoring and Adaptive Management Plan (HMMAMP), which includes conceptual mitigation proposals, performance standards, and adaptive management tasks.</p>	D, P, C, M	CVFPB, USACE	CVFPB

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
VEG-2	<p>Compensate for Riparian Habitat Removal:</p> <ul style="list-style-type: none"> To compensate for the removal of riparian habitat, replacement habitat will be created at a ratio of 2:1 to account for the temporal loss of habitat while newly created habitat is growing. Species selected to compensate for the riparian corridor removal will be consistent with the approved list of trees, shrubs, and herbaceous plants native to the American River Parkway (Parkway). The riparian replacement habitat will create habitat connectivity and wildlife migratory corridors that will provide for the habitat needs of important native wildlife species without compromising the integrity of the flood control facilities, the Parkway's flood conveyance capacity, and the Parkway management goals in the Parkway Plan. Some of the replacement riparian habitat will be planted on top of the rock trench. Additionally, to comply with the Parkway Plan, lands within the Parkway will be evaluated for compensation opportunities. The exact location of the compensation lands in the Parkway will be coordinated with the Sacramento County Department of Regional Parks during the design phase of the project and will comply with the Parkway Plan's objectives and goals. It is assumed that sufficient lands are available within the Parkway. The replacement habitat will be created in accordance with the ARCF GRR HMMAMP, which includes conceptual mitigation proposals, performance standards, and adaptive management tasks. Within the Project Area, USACE has designated permanent and temporary construction zones. In temporary zones, some or all of the vegetation will be removed for site access, haul routes, and staging areas. Then, upon completion of the project, temporary impact zones will be seeded with native grassland species. Permanent construction zones will require that most riparian vegetation be removed, but riparian vegetation will be planted at a planting bench and within the site on buried revetment or among the revetment. To compensate for the temporal loss of riparian vegetation and shaded riverine aquatic (SRA) habitat, creation of off-site habitat will also occur at sites that will be protected in perpetuity. These sites will include a mitigation site in the Parkway that will be selected and designed in coordination with National Marine Fisheries Services (NMFS) and U.S. Fish and Wildlife Service (USFWS) as part of the consultation under the Endangered Species Act. In addition, riparian habitat will be planted at the elderberry shrub mitigation areas, the Glenn Hall Park mitigation site, and the two Rio Americano mitigation sites. 	D, P, C	CVFPB, USACE	CVFPB
BIRD-1	<p>Avoid and Minimize Effects on Nesting Birds:</p> <p>To avoid and minimize effects on nesting birds, USACE will implement the following measures:</p> <ul style="list-style-type: none"> Before ground disturbance, all construction personnel will participate in a USFWS-approved worker environmental awareness program. A qualified 	D, P, C	CVFPB, USACE	CVFPB

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	<p>biologist will inform all construction personnel about the life history of Swainson's hawk, western yellow-billed cuckoo, western burrowing owl, bank swallow, and other relevant species, as well as the importance of nest sites and foraging habitat.</p> <ul style="list-style-type: none"> Where feasible, construction and maintenance activities that have the potential to affect special status nesting birds and common nesting birds will occur at times of the year when adverse effects on those species will be avoided. If activities are conducted outside the nesting seasons specified in the Final Supplemental EA/EIR, no additional measures are required to mitigate adverse effects on nesting birds. A breeding season survey for nesting birds will be conducted by a qualified biologist for all trees and shrubs to be removed or disturbed that are located within 500 feet of construction activities, including grading. Swainson's hawk surveys will be completed during at least two of the following survey periods: January 1 to March 20, March 20 to April 5, April 5 to April 20, and June 10 to July 30. An area with a radius of 0.5 mile from construction activities will be surveyed for Swainson's hawk nests. No fewer than three surveys will be completed in at least two survey periods, and at least one of these surveys will occur immediately before project initiation. Western burrowing owl surveys will follow suggested guidelines set forth in the California Department of Fish and Wildlife (CDFW) <i>Staff Report on Burrowing Owl Mitigation</i> such as conducting three or more daytime survey visits at least 3 weeks apart during the peak of breeding season from April 15 to July 15. Other migratory bird nest surveys could be conducted concurrent with Swainson's hawk surveys, with at least one survey to be conducted no more than 48 hours from the initiation of project activities to confirm the absence of nesting. If the biologist determines that the area surveyed does not contain any active nests, construction activities, including removal or pruning of trees and shrubs, could commence without any further mitigation. If at any time during the nesting season construction stops for a period of 2 weeks or longer, pre-construction surveys will be conducted before construction resumes. If nesting birds have been identified within or adjacent to the construction footprint, USACE will establish avoidance buffers as indicated in the Final Supplemental EA/EIR. Reduced buffers may be implemented if recommended by the monitoring biologist and approved by CDFW (and/or USFWS if the species is Federally listed). Buffers will be marked in the field by a qualified biologist using temporary fencing, high-visibility flagging, or other means that are equally effective in clearly delineating the buffers. Specific buffer distances for burrowing owl, which vary depending on time of year and level of disturbance, are presented in Table 3.6-6 in accordance with CDFW's <i>Staff Report on Burrowing Owl Mitigation</i>. Reduced buffers for burrowing owl may be 			

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	<p>implemented if recommended by the monitoring biologist, due to the nature of the activity, and if approved by CDFW.</p> <ul style="list-style-type: none"> Tree and shrub removal and work in other areas scheduled for vegetation clearing, grading, or other construction activities will not be conducted during the nesting season (generally February 15 through September 30, depending on the species and environmental conditions for any given year) where feasible. During rodent abatement efforts, no fumigation, use of treated bait, or other means of poisoning nuisance animals will occur within 100 feet of areas where burrowing owls are known to occur (e.g., burrows with observed nesting owls). 			
FISH-1	Observe In-Water Work Windows: In-water construction will be restricted to the general estimated work window of July 1 through October 31. During preconstruction engineering and design, the work window may be adjusted on a site-specific basis, considering periods of low fish abundance, and in-water construction outside the principal spawning and migration season. Typical construction season generally corresponds to the dry season, but construction may occur outside the limits of the dry season, only as allowed by applicable permit conditions.	C	USACE	CVFPB
FISH-2	Analyze Hazardous Materials Spills and Implement Measures to Control Contamination: Because of the deleterious effects on native resident fish of numerous chemicals used in construction, if a hazardous materials spill does occur, a detailed analysis will be performed immediately by a registered environmental assessor or professional engineer to identify the likely cause and extent of contamination. This analysis will conform to American Society for Testing and Materials standards and will include recommendations for reducing or eliminating the source or mechanisms of contamination. Based on this analysis, USACE and its contractors will select and implement measures to control contamination, with a performance standard that surface water quality and groundwater quality must be returned to baseline conditions.	C	USACE	CVFPB
VELB-1	<p>Implement Current USFWS Avoidance, Minimization, and Compensatory Measures for Valley Elderberry Longhorn Beetle (VELB):</p> <p>To reduce direct and indirect impacts on shrubs that will not be transplanted and that occur within 50 meters (165 feet) of the project, the following mitigation measures will be implemented:</p> <p>Fencing: All areas to be avoided during construction activities will be fenced and/or flagged as close to construction limits as feasible.</p> <p>Avoidance area. Activities that may damage or kill an elderberry shrub (e.g., trenching, paving) may need an avoidance area of at least 6 meters (20 feet) from the dripline, depending on the type of activity.</p>	D, P, C, M	USACE	CVFPB

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	<p>Worker education. A qualified biologist will provide training for all contractors, work crews, and any on-site personnel on the status of the VELB, its host plant and habitat, the need to avoid damaging the elderberry shrubs, and the possible penalties for non-compliance.</p> <p>Construction monitoring. A qualified biologist will monitor the initial groundbreaking activities, vegetation removal, installation of protective fencing, and will be present during all transplanting and trimming activities. Weekly site visits will also be conducted to ensure all mitigation measures are being implemented and maintained. Additional monitoring may be required per the USFWS Biological Opinion (BO).</p> <p>Timing. As much as feasible, all activities that could occur within 50 meters (165 feet) of an elderberry shrub will be conducted outside of the flight season of the VELB (March–July).</p> <p>Trimming. Trimming may remove or destroy VELB eggs and/or larvae and may reduce the health and vigor of the elderberry shrub. To avoid and minimize adverse effects on VELB when trimming, trimming will occur between November and February and will avoid the removal of any branches or stems that are 1 inch or larger in diameter unless they were approved and compensated for by following the USFWS requirements.</p> <p>Chemical Usage. Herbicides will not be used within the dripline of the shrub. Insecticides will not be used within 30 meters (98 feet) of an elderberry shrub. All chemicals will be applied using a backpack sprayer or similar direct application method.</p> <p>Mowing. Mechanical weed removal within the dripline of the shrub will be limited to the season when adults are not active (August–February) and will avoid damaging the elderberry shrub.</p> <p>Erosion Control and Revegetation. Erosion control will be implemented, and the affected area will be revegetated with appropriate native plants.</p> <p>Dust Control. Dust will be controlled by reducing speed limits to 10 miles per hour, regularly watering roads, and wetting down soil before removal and during placement.</p> <p>Transplanting and Compensatory Mitigation:</p> <ul style="list-style-type: none"> Affected elderberry shrubs with one or more stems measuring 1.0 inch or greater in diameter at ground level that could feasibly be transplanted in accordance with the 2017 Framework must be transplanted to a mitigation site as approved by USFWS. Elderberry compensation will be planted in the Parkway, but outside of the Project Area (off-site) because of construction timing. USACE will find areas in the Parkway to either expand existing compensation areas or provide connectivity between areas of conserved VELB habitat. Sites within the Parkway will be coordinated with the Sacramento County Department of Regional Parks and USFWS during the design phase of the project. Sites will be designed and developed in accordance with the criteria listed below before any effects on VELB habitat. For impacts on 0.10 acres of VELB habitat, USACE will mitigate at a 3:1 ratio and create a total of 0.30 acres of riparian habitat off-site. The elderberry shrub that will be affected will be transplanted to either the Glenn Hall Park Mitigation Site, the Rio Americano West Mitigation Site, or the Rio Americano East 			

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	<p>Mitigation Site. These sites will be used for the transplantation and compensation for impacts on elderberry shrubs as described in the <i>Compensatory Mitigation</i> section below.</p> <ul style="list-style-type: none"> • Monitor. A qualified biologist will be on-site for the duration of transplanting activities to assure compliance with avoidance and minimization measures and other conservation measures (as listed above). • Exit Holes. Exit-hole surveys will be completed immediately before transplanting. The number of exit holes found, the GPS location of the plant to be relocated, and the GPS location where the plant is transplanted will be reported to USFWS and to the California Natural Diversity Database (CNDDDB). • Timing. Elderberry shrubs will be transplanted when the shrubs are dormant (November through the first 2 weeks in February) and after they have lost their leaves. Transplanting during the non-growing season will reduce shock to the shrub and increase transplantation success. • Transplanting Procedure. Transplanting will follow the most current version of the ANSI A300 (Part 6) guidelines for transplanting shrubs (http://www.tcia.org/). • Trimming Procedure. Trimming will occur between November and February and should minimize the removal of branches or stems that exceed 1 inch in diameter. <p>Compensatory Mitigation</p> <ul style="list-style-type: none"> • A Compensatory Mitigation Proposal will be prepared detailing the management of on-site and off-site lands. This plan will meet the standards for long-term management and protection of the site as outlined in USFWS's 2017 <i>Framework for Assessing Impacts to the Valley Elderberry Longhorn Beetle</i> and the Habitat Mitigation, Monitoring, and Adaptive Management Plan for the ARCF GRR (December 2015). The Compensatory Mitigation Proposal will be prepared and submitted by USACE to USFWS for approval. It will include habitat goals that will be suitable for the yellow-billed cuckoo and VELB, with specific information regarding site selection and development, a planting plan that includes appropriate buffers, success standards, monitoring specifications, and a reporting schedule with data as outlined in Section 6.1 and Appendix C of the 2017 Framework. • Site Selection and Development. Site selection will use a landscape-level approach that will benefit not only the VELB and yellow-billed cuckoo, but all other species that rely on riparian habitat in the Parkway. Mitigation sites will focus on restoring riparian areas adjacent to the American River that will provide connectivity for VELB populations as described in the 2017 Framework. 			

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	<ul style="list-style-type: none"> Planting Plan. A planting plan will be prepared that will consider site specifics that will influence the success of the elderberry shrub and associated plantings and create a healthy riparian system. The plan will establish a diverse natural community with a complex vegetation structure that will support species present in the Project Area that rely on riparian habitat. The plan will be designed to achieve the following goals described in the 2017 Framework: <ol style="list-style-type: none"> Maximize the number of stems between 2 centimeters (0.8 inches) and 12 centimeters (4.7 inches). Minimize competition for sunlight and water. Native associates should be planted at a ratio of one native associate for every three elderberry plants. Achieve an average elderberry stem density of 240 stems per acre. <p>Buffers. An appropriate buffer will be established between mitigation lands and adjacent lands in accordance with the 2017 Framework.</p> <p>Success Standards. Performance standards including survival rates, stem densities, and recruitment as outlined below and detailed in the 2017 Framework will be established and met to meet compensatory mitigation goals:</p> <ul style="list-style-type: none"> A minimum of 60 percent of the initial elderberry and native associate plantings must survive over the first 5 years after the site is established. As much as feasible, shrubs should be well distributed throughout the site; however, in some instances, underlying geologic or hydrologic issues might preclude elderberry establishment over some portion of the site. If significant die-back occurs within the first 3 years, replanting may be used to meet the 60 percent survival criterion. However, replanting efforts should be concentrated in areas containing surviving elderberry plants. In some instances, overplanting may be used to offset the selection of a less suitable site. After 5 years, the site must show signs of recruitment. A successful site should have evidence of new growth on existing plantings as well as natural recruitment of elderberry shrubs. New growth is characterized as stems less than 3 centimeters (1.2 inches) in diameter. If no signs of recruitment are observed, the agency or applicant should discuss possible remedies with USFWS. The Performance Standards outlined in Appendix C, Table 2 for VELB mitigation will be complied with for monitoring years 2 through 7. If performance standards are not met, additional years will be required to meet the performance standards and monitoring years will start over. <p>Monitoring. The population of VELB, the general condition of the mitigation site, and the condition of the elderberry and associated native plantings in the mitigation site should be monitored at appropriate intervals. In any survey year, a minimum of two site visits between February 14 and June 30 of each year must be conducted by a USFWS-approved biologist. As indicated in the 2017 Framework, surveys must include:</p>			

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	<ul style="list-style-type: none"> A search for VELB exit holes in elderberry stems, noting the precise locations and estimated ages of the exit holes. The location of shrubs with exit holes should be mapped with a GPS. Because adult VELB are rarely encountered, targeted surveys for adults are not required. However, surveyors should record all adult VELB seen. Record photographs should be taken for all observations of adult VELB and their location mapped with a GPS. All exit-hole or adult VELB observations should be reported to the CNDDDB. An evaluation of the success standards outlined above. An evaluation of the adequacy of the site protection (fencing, signage, etc.) and weed control efforts on the mitigation site. Dense weeds and grasses such as Bermuda grass (<i>Cynodon dactylon</i>) are known to depress elderberry recruitment and their presence should be controlled to the greatest extent practicable. An assessment of any real or potential threats to VELB and its host plant, such as erosion, fire, excessive grazing, off-road vehicle use, vandalism, and excessive weed growth. A minimum of 10 permanent photographic monitoring locations, established to document conditions present at the mitigation site. Photographs should be included in each report. <p>Reports. In accordance with the 2017 Framework, yearly survey reports will be submitted to USFWS within 6 months of the final survey each year for monitoring years 2–7 (2017 Framework, Appendix C).</p>			
TURTLE-1	<p>CVFPB will implement measures to avoid and minimize effects on western pond turtle:</p> <ul style="list-style-type: none"> A qualified biologist will conduct a pre-construction survey within 7 days before the start of project activities. If no western pond turtles are observed, USACE will document that information for the file, and no additional measures will be required. Should any western pond turtles be detected on land during the pre-construction survey, the qualified biologist will identify the location using GPS coordinates. With prior CDFW approval, a qualified biologist may relocate any western pond turtles found on land or in aquatic habitat within the construction footprint to suitable aquatic habitat at least 200 feet away from the construction footprint. If western pond turtles are observed on land within the construction footprint during Project activities, USACE will stop work within approximately 200 feet of the turtle, and a qualified biologist will be notified immediately. If possible, the turtle will be allowed to leave on its own and the qualified biologist will remain in the area until the biologist deems his or her presence no longer 	P, C	CVFPB	CVFPB

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	necessary to ensure that the turtle is not harmed. Alternatively, with prior CDFW approval, the qualified biologist may capture and relocate the turtle unharmed to suitable habitat at least 200 feet outside the construction footprint. If a western pond turtle nest is unintentionally uncovered during project activities, work will stop in the vicinity of the nest and USACE will contact CDFW to determine the appropriate next steps.			
BEE-1	Implement Measures to Avoid and Minimize Effects on Crotch Bumble Bee: Before construction activities, a qualified biologist will conduct a pre-construction survey within the construction disturbance area for active Crotch bumble bee nests. If an active bumble bee nest is located, recommendations for avoiding or minimizing disturbance of the colony will be developed (e.g., establishing a buffer surrounding entry/exits and avoiding direct disturbance) in coordination with CDFW.	P, C	CVFPB	CVFPB
BATS-1	Implement Measures to Protect Maternity Roosts of Special Status Bats <ul style="list-style-type: none"> Wherever feasible, USACE will conduct construction activities outside of the active season for special status bats (May 1 to August 31). If construction activities that could affect occupied special status bat roosts cannot be conducted outside the bats' active season, USACE will conduct pre-construction surveys for special status bats using a qualified biologist. Survey duration will be a minimum of 1 day and 1 evening. If special status bats are found in trees in the area where project activities will occur, a minimum 100-foot avoidance buffer will be established around the roost/maternity until it is no longer occupied. High-visibility construction fencing will be installed around the buffer and will remain in place until the tree is no longer occupied by bats. The trees or structures will not be removed until a biologist has determined that the roost is no longer occupied by special status bats. If construction activities must occur within the avoidance buffer, then the activities will be monitored by a qualified biologist either continuously or periodically during work, as determined by the qualified biologist. The qualified biologist will be empowered to stop activities that, in the biologist's opinion, threaten to cause unanticipated and/or unpermitted adverse effects on special status bats. If construction activities are stopped, USACE will consult with CDFW to determine appropriate measures to implement to avoid adverse effects. For trees containing suitable bat roosting habitat that are planned for removal or trimming (irrespective of the time of year), such trees must be trimmed and/or removed in a two-phase removal system conducted over two consecutive days. The first day (in the afternoon), limbs and branches will be removed, using chainsaws only. Removal activities must avoid limbs with cavities, crevices, or deep bark fissures, and remove only branches or limbs without those features. On the second day, the entire tree will be removed. 	P, C	CVFPB, USACE	CVFPB

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	<ul style="list-style-type: none"> A qualified biologist will conduct a pre-construction emergence survey for special status bats within 14 days before the start of work within 250 feet of the Howe Avenue Bridge, the Guy West Bridge, or the H Street Bridge. The survey will be conducted 1 hour before dusk to 1 hour after dusk to identify whether special status bats are occupying the bridges as day roosts. If special status bats are found roosting beneath any of these bridges and work will occur within 250 feet of the roost, one-way doors will be installed at roost entrances, allowing bats to exit but preventing them from entering, to encourage the bats to relocate. If maternity roosts are found, they will be avoided by at least 250 feet until the offspring have fledged. If avoidance is not feasible, additional mitigation will be developed in consultation with CDFW. 			
BADGER-1	<p>Implement Measures to Avoid and Minimize Effects on American Badger:</p> <ul style="list-style-type: none"> CVFPB will conduct pre-construction clearance surveys for American badgers. These surveys will be conducted within 14 days of the start of any ground-disturbing activity. If no potential American badger dens are present, no further mitigation is necessary. If a potential American badger den is discovered but deemed inactive, the qualified biologist will excavate the den during the initial clearance survey to prevent badgers from reoccupying the den during the construction period. If found to be present, occupied badger dens will be flagged and ground-disturbing activities will be avoided within 50 feet of an occupied den. Maternity dens will be avoided during pup-rearing season (February 15 through July 1) and a minimum 200-foot buffer will be established. If avoidance of a non-maternity den is not feasible, badgers will be relocated by carefully evacuating the burrow (either by hand or using mechanized equipment, under the direct supervision of a qualified biologist) before or after the rearing season (February 15 through July 1). Any relocation of badgers will occur only after consultation with CDFW. 	P, C	CVFPB	CVFPB
PLANT-1	<p>Implement Measures to Avoid and Minimize Effects to Special Status Plants:</p> <p>Sanford's arrowhead is the only special status plant observed to be present in the Project Area, based on a focused rare-plant survey conducted in July 2019. To avoid and minimize effects on Sanford's arrowhead, the CVFPB will implement the following measures:</p> <ul style="list-style-type: none"> The location of Sanford's arrowhead plants identified during the 2019 rare-plant survey will be marked or fenced off as an avoided area during construction. A qualified biologist will establish a buffer of at least 25 feet around the Sanford's arrowhead plants. If a buffer of 25 feet is not possible, the next maximum possible distance will be fenced off as a buffer. 	P, C	CVFPB, USACE	CVFPB

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	<ul style="list-style-type: none"> If operations and maintenance (O&M) activities are to occur near the Sanford's arrowhead plants, a qualified biologist will mark their location with pin flags. The qualified biologist will instruct all personnel conducting the O&M activities regarding the location, appearance, and extent of these plants and the importance of avoiding impacts on this species. Herbicides will not be used within 3 meters (10 feet) of a known Sanford's arrowhead plant. All chemicals will be applied using a backpack sprayer or similar direct application method 			
FISH-3	<p>Implement Measures to Avoid and Minimize Effects to Listed Fish Species:</p> <ul style="list-style-type: none"> In-water construction activities (e.g., placement of rock revetment) will be limited to the work window of July 1 through October 31. If USACE needs to work outside of this window, it will consult with USFWS and NMFS. Erosion control BMPs will be implemented, including a Storm Water Pollution Prevention Plan and Water Pollution Control Plan, to minimize the entry of soil or sediment into the American River. BMPs will be installed, monitored for effectiveness, and maintained throughout construction operations to minimize effects on Federally listed fish and their designated critical habitat. Maintenance will include daily inspections of all heavy equipment for leaks. USACE will participate in an existing Interagency Working Group or work with other agencies to participate in a new Bank Protection Working Group to coordinate stakeholder input into future flood risk reduction actions associated with the Project. USACE will coordinate with NMFS during pre-construction engineering and design as future flood risk reduction actions are designed to ensure that conservation measures are incorporated to the extent practicable and feasible and projects are designed to maximize ecological benefits. USACE will include a Riparian Corridor Improvement Plan as part of the Project, with the overall goal of maximizing the ecological function and value of the existing levee system in the Sacramento metropolitan area. USACE will implement an ARCF GRR Habitat Mitigation Monitoring and Adaptive Management Plan (HMMAMP) with an overall goal of ensuring that the conservation measures achieve a high level of ecological function and value. The HMMAMP will include: <ul style="list-style-type: none"> Specific goals and objectives and a clear strategy for maintaining all Project conservation elements for the life of the Project. Measures to be monitored by USACE for 10 years after construction. USACE will update its O&M manual to ensure that the HMMAMP is adopted by the local sponsor to ensure that the goals and objectives of the conservation measures are met for the life of the Project. 	D, P, C, M	CVFPB, USACE	CVFPB

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	<ul style="list-style-type: none"> ○ Specific goals and objectives and a clear strategy for achieving full compensation for all project-related impacts on listed fish species. • USACE will continue to coordinate with NMFS during all phases of construction, implementation, and monitoring by hosting annual meetings and issuing annual reports throughout the construction period as described in the HMMAMP. • USACE will seek to avoid and minimize adverse construction effects on listed species and their critical habitat to the extent feasible and will implement on-site and off-site compensation actions as necessary. • For identified designated critical habitat, where feasible, all efforts will be made to compensate for impacts where they have occurred or in close proximity. USACE will develop and implement a compensatory mitigation accounting plan to ensure the tracking of compensatory measures associated with implementation of the Project. USACE will continue to coordinate with NMFS during all phases of construction, implementation, and monitoring by hosting meetings and issuing annual reports throughout the construction period. • USACE will minimize the removal of existing riparian vegetation and instream woody material (IWM) to the maximum extent practicable. Where appropriate, removed IWM will be anchored back into place, or if not feasible, new IWM will be anchored in place. • USACE will ensure that the planting of native vegetation will occur as described in the HMMAMP. All plantings must be provided with the appropriate amount of water to ensure successful establishment. • USACE will provide a copy of the BO, or similar documentation, to the prime contractor, making the prime contractor responsible for implementing all requirements and obligations included in the documents and for educating and informing all other contractors involved in the Project as to the requirements of the BO. • A NMFS-approved Worker Environmental Awareness Training Program for construction personnel will be conducted by the NMFS-approved biologist for all construction workers before the start of construction activities. Written documentation of the training will be submitted to NMFS within 30 days of the completion of training. • USACE will consider installing IWM of at least 40 percent shoreline coverage at all seasonal water surface elevations in coordination with the Interagency Working Group or the Bank Protection Working Group. The purpose is to maximize the refugia and rearing habitats for juvenile fish. 			

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	<ul style="list-style-type: none"> USACE will protect in place all riparian vegetation on the lower waterside slope of any levee, unless removal is specifically approved by NMFS, following completion of project construction. Screen any water pump intakes, as specified by the 2011 NMFS screening specifications. Water pumps will maintain an approach velocity of 0.2 feet per second or less. Screen openings will be for a perforated plate: circular or square openings shall not exceed 3/32 inch (2.38 millimeters [mm]), measured on a side, and slotted or rectangular screen face openings must not exceed 1.75 mm (approximately 1/16 inch) in the narrow direction. Screen material shall provide a minimum of 27 percent open area. 			
SRA-1	<p>Implement Measures to Avoid, Minimize, and Compensate for Effects on Shaded Riverine Aquatic Habitat:</p> <ul style="list-style-type: none"> For identified designated critical habitat of listed fish species, where feasible, all efforts will be made to compensate for impacts where they have occurred, or elsewhere in the Parkway. Impacts on designated critical habitat, SRA habitat, and instream components combined, and the compensation value of replacement habitat will be based on the interagency-approved SAM model used throughout the Sacramento River basin and Sacramento–San Joaquin Delta flood control system. USACE will incorporate compensation for SRA habitat losses either by constructing off-site compensation sites or purchase of credits at a NMFS-approved conservation bank, where appropriate, or by implementing a combination of the two. USACE will compensate for lost habitat using NMFS-approved mitigation actions at a 1:1 ratio prior to construction, 2:1 ratio during construction, or a 3:1 ratio if mitigation actions occur after construction. SRA habitat compensation sites will be established in coordination with NMFS and USFWS as part of consultation under Section 7 of the Endangered Species Act for the ARCF GRR, consistent with the American River Parkway Plan, and in coordination with the Sacramento County Department of Regional Parks. On-site created SRA habitat acreage will also be counted toward offsetting lost SRA habitat. Compensation sites will be monitored, and vegetation will be replaced as necessary based on performance standards in the ARCF GRR HMMAMP. 	D, P, C, M	CVFPB, USACE	CVFPB
CR-1	<p>Resolve Adverse Effects through a Programmatic Agreement and Historic Properties Treatment Plan: A Programmatic Agreement has been executed for the ARCF 2016 Project. A Historic Properties Treatment Plan (HPTP) will be developed if the Project is found to result in adverse effects.</p>	D, P, C	USACE	CVFPB
CR-2	<p>Prepare an Archaeological Discovery Plan and an Archaeological Monitoring Plan: In accordance with the procedures described in Section 9.2 of the ARCF Historic Properties Management Plan (HPMP), an archaeological discovery plan will be developed for the</p>	P, C	USACE	CVFPB

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	Project. The discovery plan will specify what actions must be taken by the contractor in the event of an archaeological discovery and describe what actions USACE may take in the event of a discovery.			
CR-3	Conduct Cultural Resources Awareness Training: In accordance with the procedures described in Section 9.1 of the ARCF HPMP, USACE will require the contractor to provide a cultural resources and Tribal Cultural Resources (TCR) sensitivity and awareness training program for all personnel involved in project construction, including field consultants and construction workers. The training will be developed in coordination with an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archaeology, as well as culturally affiliated Native American tribes. USACE may invite Native American representatives from interested culturally affiliated Native American tribes to participate. The training will be conducted before any project-related construction activities begin in the area of potential effect (APE) and will include relevant information regarding sensitive cultural resources and TCRs, including applicable regulations, protocols for avoidance, and consequences of violating Federal and State laws and regulations. The training will also describe appropriate avoidance and impact minimization measures for cultural resources and TCRs that could be located in the APE and will outline what to do and whom to contact if any potential cultural resources or TCRs are encountered. The training will emphasize the requirement for confidentiality and culturally appropriate treatment of any discovery of significance to Native Americans and will discuss appropriate behaviors and responsive actions, consistent with Native American tribal values.	C	USACE	CVFPB
CR-4	Implement Procedures for Inadvertent Discovery of Cultural Material: If an inadvertent discovery of cultural materials (e.g., unusual amounts of shell, animal bone, any human remains, bottle glass, ceramics, building remains), TCRs, sacred sites, or landscapes is made at any time during project-related construction activities, USACE in consultation with the CVFPB and other interested parties will develop appropriate protection and avoidance measures where feasible. These procedures will be developed in accordance with the ARCF Programmatic Agreement (PA) and ARCF HPMP, which specifies procedures for post-review discoveries. Additional measures, such as development of HPTPs prepared in accordance with the PA and HPMP, may be necessary if avoidance or protection is not possible.	P, C	CVFPB, USACE	CVFPB
CR-5	Evaluate Any Tribal Cultural Resources Discovered and Implement Avoidance and Minimization Measures to Avoid Significant Adverse Effects: California Native American Tribes that are traditionally and culturally affiliated with the geographic area in which the Project is located may have expertise regarding their TCRs (PRC Section 21080.3.1). Consistent with the California Natural Resources Agency's Tribal Consultation Policy, culturally affiliated Tribes will be consulted concerning TCRs that may be affected, if these types of resources are discovered before or during construction. Consultation with culturally affiliated Tribes will focus on identifying measures to avoid or minimize impacts on any such resources discovered during construction. If TCRs are identified in the APE before	C	CVFPB	CVFPB

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	<p>or during construction, the following performance standards will be met before any further construction and associated activities that may result in damage to or destruction of TCRs: Each identified Tribal Cultural Resource will be evaluated for California Register of Historic Places (CRHR) eligibility through application of established eligibility criteria (14 CCR 15064.636), in consultation with interested Native American Tribes.</p> <p>If a Tribal Cultural Resource is determined to be eligible for listing in the CRHR, USACE, in consultation with the CVFPB, will avoid damaging the Tribal Cultural Resource in accordance with PRC Section 21084.3, if feasible. If the CVFPB determines that the Project may cause a substantial adverse change to a Tribal Cultural Resource, and measures are not otherwise identified in the consultation process, the following are examples of mitigation steps capable of avoiding or substantially lessening potential significant impacts on a Tribal Cultural Resource or alternatives that will avoid significant impacts on a Tribal Cultural Resource. These measures may be considered, where feasible, to avoid or minimize significant adverse impacts:</p> <ul style="list-style-type: none"> • Avoid and preserve resources in place, including, but not limited to, planning construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria. • Treat the resource with culturally appropriate dignity, considering the Tribal cultural values and meaning of the resource, including, but not limited to, the following: <ul style="list-style-type: none"> • Protect the cultural character and integrity of the resource. • Protect the traditional use of the resource. • Protect the confidentiality of the resource. • Establish permanent conservation easements or other interests in real estate, with culturally appropriate management criteria for the purposes of preserving or using the resources or places. • Protect the resource. 			
CR-6	<p>Implement Procedures for Inadvertent Discovery of Human Remains: The roles and responsibilities of USACE during the response to the inadvertent discovery of human remains are outlined in the HPMP. To minimize adverse effects from encountering human remains during construction, CVFPB will implement the following measures:</p> <ul style="list-style-type: none"> • In accordance with the California Health and Safety Code, if human remains are uncovered during ground-disturbing activities, the CVFPB will consult with USACE, and USACE will immediately halt potentially damaging excavation in the area of the burial and notify the Sacramento County Coroner and a professional archaeologist to determine the nature of the remains. The coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or State lands (California Health and Safety Code Section 7050.5[b]). If the coroner 	C	CVFPB	CVFPB

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	<p>determines that the remains are those of a Native American, he or she must contact the Native American Heritage Commission (NAHC) by phone within 24 hours of making that determination (California Health and Safety Code Section 7050[c]). After the coroner's findings have been made, the archaeologist and the NAHC-designated most likely descendent (MLD), in consultation with the landowner, will determine the ultimate treatment and disposition of the remains.</p> <ul style="list-style-type: none"> • Upon the discovery of Native American human remains, USACE, in coordination with the CVFPB, will require that all construction work must stop within 100 feet of the discovery until consultation with the MLD has taken place. The CVFPB will lead consultation with the MLD, in coordination with USACE. The MLD will have 48 hours to complete a site inspection and make recommendations to the landowner after being granted access to the site. A range of possible treatments for the remains, including nondestructive removal and analysis, preservation in place, relinquishment of the remains and associated items to the descendants, or other culturally appropriate treatment may be discussed. PRC Section 5097.98(b)(2) suggests that the concerned parties may mutually agree to extend discussions beyond the initial 48 hours to allow for the discovery of additional remains. The following is a list of site protection measures that the CVFPB will employ: <ul style="list-style-type: none"> ○ Record the site with the NAHC or the appropriate Information Center. ○ Record a document with the county in which the property is located. ○ Rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance. Reburial of the remains will be completed by the CVFPB or its authorized representative. If the NAHC is unable to identify an MLD, or if the MLD fails to make a recommendation within 48 hours after being granted access to the site, the CVFPB or its authorized representative may reinter the remains in a location not subject to further disturbance. If the CVFPB rejects the recommendation of the MLD and mediation by the NAHC fails to provide measures acceptable to the CVFPB, the CVFPB will implement mitigation to protect the burial remains. Construction work in the vicinity of the burials will not resume until the mitigation is completed. 			
TR-1	<p>Prepare and Implement a Traffic Control and Road Maintenance Plan: Before the start of project-related construction activities, USACE and the CVFPB will require the contractor to prepare a Traffic Control and Road Maintenance Plan. This plan will describe the methods of traffic control to be used during construction. All on-street construction traffic will be required to comply with the local jurisdiction's standard construction specifications. The items listed below will be included in the plan and as terms of the construction contracts:</p>	P, C	CVFPB, USACE	CVFPB

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	<ul style="list-style-type: none"> The contractor will be required to prepare a Traffic Control and Road Maintenance Plan. A traffic control plan describes the methods of traffic control to be used during construction. All on-street construction traffic will be required to comply with the local jurisdiction's standard construction specifications. The plan will reduce the effects of construction on the roadway system in the Project Area throughout the construction period. Construction contractors will follow the standard construction specifications of affected jurisdictions and obtain the appropriate encroachment permits, if required. The conditions of the encroachment permit will be incorporated into the construction contract and will be enforced by the agency that issues the encroachment permit. Proposed lane closures will be coordinated with the appropriate jurisdiction and will be minimized to the extent possible during the morning and evening peak traffic periods. Standard construction specifications also typically limit lane closures during commuting hours. Lane closures will be kept as short as possible. If a road must be closed, detour routes and/or temporary roads will be made to accommodate traffic flows. Detour signs will be provided to direct traffic through detours. Advance notice signs of upcoming construction activities will be posted at least 1 week in advance so that motorists are able to avoid traveling through the study area during these times. Within the Parkway, detours will be used to allow for continued use by bicycle commuters. Safe pedestrian and bicyclist access will be maintained around the construction areas at all times. Construction areas will be secured as required by the applicable jurisdiction to prevent pedestrians and bicyclists from entering the work site, and all stationary equipment will be located as far away as possible from areas where bicyclists and pedestrians are present. The construction contractor will provide adequate parking for construction trucks, equipment, and construction workers within the designated staging areas throughout the construction period. If inadequate space for parking is available at a given work site, the construction contractor will provide an off-site staging area and, as needed, coordinate the daily transport of construction vehicles, equipment, and personnel to and from the work site. The construction contractor will assess damage to roadways used during construction and will repair all potholes, fractures, or other damages. The construction contractor will notify and consult with emergency service providers to maintain emergency access and facilitate the passage of emergency vehicles on city streets. 			

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	<ul style="list-style-type: none"> Emergency vehicle access will be made available at all times. The contractor will be required to coordinate with local emergency responders to inform them of the construction activities. 			
TR-2	<p>Provide Bicycle and Pedestrian Access: The contractor will prepare a Traffic Control and Road Maintenance Plan that will include the following provisions related to bicycle and pedestrian access:</p> <ul style="list-style-type: none"> Provide signs along affected pedestrian and bicycle pathways announcing scheduled closures and recommended detour routes. Place signal personnel at intersections of construction vehicle pathways and active bicycle and pedestrian facilities. 	P, C	USACE	CVFPB
AQ-1	<p>Implement Sacramento Metro Air Quality Management District (SMAQMD) Basic Construction Emissions Control Practices: SMAQMD requires construction projects to implement basic construction emissions control practices to control fugitive dust and diesel exhaust emissions.72F1 USACE will implement the following control measures during project construction:</p> <ul style="list-style-type: none"> Control fugitive dust as required by District Rule 403 and enforced by District staff. Water all exposed surfaces twice daily. Exposed surfaces include but are not limited to soil piles, graded areas, unpaved parking areas, staging areas, and access roads. Cover or maintain at least two feet of freeboard space on haul trucks transporting soil, sand, or other loose material on the site. Any haul trucks that will travel along freeways or major roadways should be covered. Use wet power vacuum street sweepers to remove any visible track-out of mud or dirt from adjacent public roads at least once a day. Use of dry power sweeping is prohibited. Complete all roadways, driveways, sidewalks, or parking lots to be paved as soon as possible. In addition, lay building pads as soon as possible after grading unless seeding or soil binders are used. Limit vehicle speeds on unpaved roads to 15 miles per hour. Minimize idling time, either by shutting equipment off when not in use or by reducing the time of idling to 5 minutes (required by 13 CCR 	C	USACE	CVFPB

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	<p>Sections 2449[d][3] and 2485). Provide clear signage that posts this requirement for workers at the site entrances.</p> <ul style="list-style-type: none"> Maintain all construction equipment in proper working condition according to the manufacturer's specifications. The equipment must be checked by a certified mechanic and determined to be running in proper condition before it is operated. 			
AQ-2	<p>Implement Enhanced Fugitive Dust Control Practices: Fugitive dust mitigation for the Project will require the use of adequate measures during each construction activity and will include frequent application of water or application of soil additives, control of vehicle access, and vehicle speed restrictions. USACE will implement the dust mitigation measures listed below.</p> <ul style="list-style-type: none"> Water exposed soil with adequate frequency for continued moist soil; however, do not overwater to the extent that sediment flows from the site. Suspend excavation, grading, and/or demolition activity when wind speeds exceed 20 miles per hour. Plant vegetative ground cover (fast-germinating native grass seed) in disturbed areas as soon as possible. Install wheel washers for all exiting trucks or wash off all trucks and equipment leaving the site. Treat site access to a distance of 100 feet from the paved road with a 6- to 12-inch layer of wood chips, mulch, or gravel to reduce generation of road dust and road dust carryout onto public roads. Post a publicly visible sign identifying the telephone number and person to contact at the lead agency regarding dust complaints. This person will respond and take corrective action within 48 hours. To ensure compliance, SMAQMD's phone number will also be visible. 	C	USACE	CVFPB
AQ-3	<p>Develop and Implement a Plan for Enhanced On-Site Exhaust Controls: Actual emissions of nonattainment and maintenance pollutants will be tracked monthly using tools acceptable to SMAQMD (e.g., construction mitigation calculator, SMAQMD's Equipment List). USACE shall submit to SMAQMD a comprehensive inventory of all off-road construction equipment (50 horsepower or more) to be used 8 hours or more during Project construction. The tracking data will be used to verify that all pollutants remain below the CEQA and NEPA daily thresholds, General Conformity <i>de minimis</i> thresholds, or are fully mitigated and offset if emissions exceed either.</p> <p>The initial report will include all of the following details:</p> <ul style="list-style-type: none"> Information about the project information and the construction company. The equipment type, horsepower rating, engine model year, projected hours of use, and California Air Resources Board (CARB) equipment identification number for each piece of equipment in the plan. 	C	USACE	CVFPB

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	<ul style="list-style-type: none"> All owned, leased, and subcontracted equipment to be used. <p>Updated reports will be submitted monthly to demonstrate continued project compliance. SMAQMD may conduct periodic site inspections to determine compliance. Nothing in this mitigation will supersede other air district, State, or Federal rules or regulations.</p> <p><i>Mitigation Measure AQ-3 will be considered fulfilled on January 1, 2028, when full implementation of the CARB In-Use Off-Road Regulation is expected.</i></p>			
AQ-4	Use Electric Construction Equipment: To the extent available and feasible, construction equipment will be powered by electricity, rather than diesel fuel, to reduce construction-related criteria air pollutants, TACs, and tailpipe GHG emissions associated with diesel fuel combustion. Electrification will result in a small amount of indirect carbon dioxide emissions because of the operation of the electric grid. Various types of construction equipment may feasibly be run on electricity.	C	USACE	CVFPB
AQ-5	Pay NO_x Mitigation Fee to SMAQMD: As of July 1, 2017, the mitigation fee rate is \$30,000 per ton of emissions. The contractor will pay the appropriate SMAQMD-required NO _x mitigation fee to offset the project's NO _x emissions when they exceed SMAQMD's threshold of 85 lb/day. The NO _x mitigation fee will apply to all emissions from the Project: on-road (on- and off-site), off-road, portable, stationary equipment, and vehicles.	C	USACE	CVFPB
GHG-1	<p>Avoid, Minimize, and Compensate for Greenhouse Gas Emissions Effects: USACE will implement the following measures to avoid, minimize, and compensate for the Project's GHG emissions effects:</p> <ul style="list-style-type: none"> Encourage and provide carpools, shuttle vans, transit passes, and/or secure bicycle parking for construction worker commutes. Recycle at least 75 percent of construction waste and demolition debris. Purchase at least 20 percent of the materials and imported soil from sources within 100 miles of the Project area. Minimize idling time, either by shutting equipment off when not in use or by reducing the time of idling to no more than 3 minutes (a 5-minute limit is required by the State airborne toxics control measure [13 CCR Sections 2449(d)(3) and 2485]). Clear signage identifying this requirement for workers will be posted at the entrances to the site. Maintain all construction equipment in proper working condition according to the manufacturer's specifications. The equipment will be checked by a certified mechanic and determined to be running in proper condition before it is operated. Use equipment with new technologies (repowered engines, electric drive trains). 	C	CVFPB, USACE	CVFPB

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	<ul style="list-style-type: none"> • Use a CARB-approved low-carbon fuel for construction equipment. (NO_x emissions from the use of low-carbon fuel will be reviewed and increases mitigated.) • Purchase a GHG offset for program-wide GHG emissions (direct plus indirect emissions from on-road haul trucks plus commute vehicles) exceeding SMAQMD's or CEQ's significance thresholds applicable at the time of construction. Carbon offset credits will be purchased from programs that have been approved by SMAQMD. 			

NOISE-1	<p>Implement Noise Reduction Practices. The following noise reduction practices will reduce noise generated by construction activities and will apply to construction activities within 500 feet of sensitive receptors, including but not limited to residences.</p> <ul style="list-style-type: none"> • Coordinate with local residents, comply with noise ordinances, and implement other BMPs. • Provide written notice to residents within 1,000 feet of the construction zone, advising them of the estimated construction schedule. This written notice will be provided within one week to one month of the start of construction at that location. • Display notices with such information as contractor contact telephone number(s) and proposed construction dates and times in a conspicuous manner, such as on construction site fences. • Schedule the loudest and most intrusive construction activities during daytime hours (7:00 a.m. to 7:00 p.m.), when feasible. • Require that construction equipment be equipped with factory-installed muffling devices, and that all equipment be operated and maintained in good working order to minimize noise generation. • Locate stationary noise-generating equipment as far as practicable from sensitive receptors. • Limit unnecessary engine idling (i.e., longer than 5 minutes) as required by State air quality regulations. • Employ equipment that is specifically designed for low noise emission levels, when feasible. • Employ equipment that is powered by electric or natural gas engines, as opposed to those powered by gasoline fuel or diesel, when feasible. • If the construction zone is within 500 feet of a sensitive receptor, place temporary barriers between stationary noise equipment and noise-sensitive receptors to block noise transmission, when feasible, or take advantage of existing barrier features, such as existing terrain or structures, when feasible. • If the construction zone is within 500 feet of a sensitive receptor, prohibit the use of backup alarms and provide an alternate warning system, such as a flagman or radar-based alarm that is compliant with State and Federal worker safety regulations. • Locate construction staging areas as far as practicable from sensitive receptors. • Design haul routes to avoid sensitive receptors, to the extent practical. • If there are any occupied buildings with plaster or wallboard construction within 40 feet of construction equipment, prepare a vibration control plan prior to construction. 	P, C	USACE	CVFPB
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Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
NOISE-2	<p>Implement Vibration Control Measures. USACE and the CVFPB will implement the following vibration control measures to reduce construction-related vibration effects.</p> <p>To the extent feasible and practicable, the primary construction contractors will employ vibration-reducing construction practices so that vibration from construction will comply with applicable noise-level rules and regulations, including the construction vibration standards of the City or County of Sacramento, depending on the jurisdictional location of the affected receptor(s). Project construction specifications will require the contractor to limit vibrations to less than 0.2 inch per second PPV (peak particle velocity), and less than 72 VdB (velocity decibels) for frequent events or 80 VdB for infrequent events within 50 feet at any building. If construction or truck hauling activity will occur within 50 feet of any occupied building, the contractor will prepare a vibration control plan prior to construction. The plan will include measures to limit vibration, including but not limited to the following:</p> <ul style="list-style-type: none"> • Avoid vibratory rollers and packers near sensitive areas. • Route heavily loaded trucks away from residential streets, if possible. If no alternatives are available, select the streets with the fewest homes. Depending on the specific truck type that will be used, the contractor could demonstrate with substantial evidence, to the City of Sacramento, that trucks will not exceed applicable thresholds mentioned above. • Conduct a voluntary pre- and post-construction survey to assess potential architectural damage from levee construction vibration at each residence within 75 feet of construction. The survey will include visual inspection of the structures that could be affected and documentation of structures by means of photographs and video. This documentation will be reviewed with the individual owners prior to any construction activities. Post-construction monitoring of structures will be performed to identify (and repair, if necessary) damage, if any, from construction vibration. Any damage will be documented with photographs and video. This documentation will be reviewed with the individual property owners. • Place vibration monitoring equipment at the property line adjacent to large equipment and, with owner approval, at the back of the residential structures adjacent to the large equipment. Record measurements daily. 	P, C	CVFPB, USACE	CVFPB
REC-1	<p>Avoid and Minimize Effects on Recreational Use. USACE and the CVFPB will implement the following measures to reduce temporary, short-term construction effects on recreational facilities in the Project Area:</p> <ul style="list-style-type: none"> • Coordinate with recreation user groups prior to and during construction for input into mitigation measures that will reduce effects to the maximum extent practicable. Advance notice will be given to recreation users, informing them of anticipated activities and detours to reduce the effects. Closures of paved trails will be noticed 14-days in advance via signage at the detour locations. • Post signs at major entry points for parks and recreation facilities clearly indicating closures and estimated duration of closures. Information signs will 	P, C	CVFPB, USACE	CVFPB

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	<p>notify the public of alternate parks and recreation sites, including boat launch ramps, and provide a contact number to call for questions or concerns.</p> <ul style="list-style-type: none"> • Provide flaggers and post warning signs and signs restricting access before and during construction to ensure public safety. • Provide marked detours for all bike trails and on-street bicycle routes that will be temporarily closed during construction. Detours will be developed in consultation with the City of Sacramento Bicycle and Pedestrian Coordinator at least 10 days before the start of construction activities, as applicable. Signs that clearly indicate closure routes will be posted at major entry points for bicycle trails, information signs will be posted to notify motorists to share the road with bicyclists where necessary, and a contact number will be provided to call for questions or concerns. Fences will be erected to prevent access to the Project Area. • Provide traffic control in areas where recreational traffic will intersect with construction vehicles. • If any access point needs to be closed during construction, post notices providing alternative access routes. • Upon completion of levee improvements, coordinate with the City of Sacramento and Sacramento County to restore access and repair any construction-related damage to recreational facilities to pre-project conditions 			
UTIL-1	<p>Avoid and Minimize Service Disruptions and Damage to Utilities and Infrastructure. USACE and the CVFPB will implement the measures listed below before construction begins to avoid and minimize potential damage to utilities and infrastructure and reduce service disruptions during construction.</p> <ul style="list-style-type: none"> • Coordinate with applicable utility and service providers to implement the orderly relocation of utilities that need to be removed or relocated. • Notify the appropriate agencies and affected landowners regarding any potential interruptions of service. • Verify through field surveys and the use of Underground Service Alert services the locations of buried utilities in the Project Area, including natural gas, petroleum, and sewer pipelines. Any buried utility lines will be clearly marked in the area of construction (e.g., in the field) and on the construction specifications in advance of any earthmoving activities. • Before the start of construction, prepare and implement a response plan that addresses potential accidental damage to a utility line. The plan will identify chain-of-command rules for notifying authorities and appropriate actions and responsibilities regarding the safety of the public and workers. A component of the response plan will include worker education training in response to such situations. 	P, C	USACE	CVFPB

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	<ul style="list-style-type: none"> Stage utility relocations during project construction to minimize interruptions in service. Communicate construction activities with first responders to avoid response delays caused by construction detours. 			
HAZ-1	<p>Avoid and Minimize Hazards. USACE and the CVFPB will implement the following measures to avoid and minimize the impact of hazards and hazardous materials.</p> <ul style="list-style-type: none"> Comply with applicable regulations to reduce the potential for an accidental release of hazardous materials during construction. The contractor will also be required to prepare a SWPPP, which details the methods to prevent run-on and discharges from the construction sites into drainage systems, lakes, or rivers. This plan will include SWPPP BMPs that will be implemented accordingly. Test each erosion protection site for contaminants before construction and dispose of any materials found in accordance with all Federal, State, and local regulations at an approved disposal site. 	P, C	CVFPB, USACE	CVFPB

D: To be implemented or included as part of project design, including pre-project permitting and agency coordination.

P: To be implemented prior to construction being initiated(pre-construction), but not part of project design or permitting.

C: To be implemented during project construction.

M: To be implemented as ongoing maintenance after construction is complete.

EXHIBIT D – AMERICAN RIVER WATERSHED COMMON FEATURES, WATER RESOURCES DEVELOPMENT ACT OF 2016 PROJECT, AMERICAN RIVER CONTRACT 1

CALIFORNIA STATE LANDS COMMISSION STATEMENT OF FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS

1.0 INTRODUCTION

The California State Lands Commission (Commission or CSLC), acting as a responsible agency under the California Environmental Quality Act (CEQA), makes these findings and this Statement of Overriding Considerations to comply with CEQA as part of its discretionary approval to authorize issuance of a General Lease – Public Agency Use lease, to the Central Valley Flood Protection Board (CVFPB), for use of sovereign land associated with the proposed American River Watershed Common Features, Water Resources Development Act of 2016 Project, American River Contract 1 (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines, § 15381.)¹ The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. (Pub. Resources Code, §§ 6301, 6306, 6009, subd. (c).) All tidelands and submerged lands granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust.

The Commission is a responsible agency under CEQA for the Project because the Commission must approve two General Leases – Public Agency Use for the Proposed Action/Project to go forward and because the CVFPB, as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. The U.S. Army Corps of Engineers (USACE) is the National Environmental Policy Act (NEPA) federal lead agency; however, for purposes of these Findings, the Commission is relying on the CEQA lead agency determinations and will hereafter refer to the CVFPB as the “lead agency.” The CVFPB analyzed the environmental impacts associated with the Project in a Final Environmental Impact Statement/Report (EIS/EIR) (State Clearinghouse [SCH] No. 2005072046, American River Watershed Common Features General Reevaluation Report [EIR]) and, on June 9, 2016, certified the EIS/EIR, and adopted a Mitigation Monitoring and Reporting Program (MMRP), Findings, and a Statement of Overriding Considerations.

¹ CEQA is codified in Public Resources Code section 21000 et seq. The State CEQA Guidelines are found in California Code of Regulations, title 14, section 15000 et seq.

The CVFPB then prepared a Supplemental Environmental Assessment/EIR (Supplemental EA/EIR). The lead agency certified the Supplemental EA/EIR on May 28, 2021, and adopted a MMRP, Findings, and a Statement of Overriding Considerations.

CVFPB proposes to install erosion protection features along the Lower American River at levee Site 2-1 and mitigate for impacts to Site 2-1 on an offsite parcel. These activities are described in applications 2402 and 2715. The Project would include the following components that have potential to affect State sovereign land:

Application 2402/Site 2-1:

- Bank protection (rock revetment) would be placed on the existing bank at a slope varying from a 2:1 slope to a 3:1 slope, extending below the ordinary low-water mark (OLWM).
- A planting bench (trench) would be constructed in the rock, filled with soil, and planted with native grasses, shrubs, and trees with shallow root systems to ensure that they do not limit the functionality of the trench during a flood event.
- Small dead trees with intact root wads, also referred to as in-stream woody material (IWM), would be anchored in lower elevation bench areas, and a mix of water dependent herbaceous plants would be planted.

Application 2715/Glenn Hall Park mitigation site:

- Existing grasses and nonnative vegetation would be cleared
- Elderberry shrubs and planting compensation vegetation would be planted/transplanted
- Tree clusters would be fenced for temporary protection from wildlife
- A temporary irrigation system would be installed for establishment and maintenance period of the transplant and associative plant material
- Maintaining the area (picking up trash, vandalism repairs, and the removal of used planting accessories e.g., bamboo stakes, ties, browse guards)

The CVFPB determined that the Project could have significant environmental effects on the following environmental resources:

- Visual Resources
- Hydrology and Water Quality
- Vegetation and Wildlife
- Fisheries
- Special-Status Species
- Cultural Resources
- Transportation and Circulation
- Air Quality
- Greenhouse Gas Emissions and Energy Consumption
- Noise
- Recreation

- Public Utilities and Service Systems
- Hazards and Hazardous Materials

Of the 13 resources areas noted above, Project components within the Commission's jurisdiction (i.e., bank protection and restoration) could have significant environmental effects on 11 of the resource areas, as follows:

- Visual Resources
- Hydrology and Water Quality
- Vegetation and Wildlife
- Fisheries
- Special-Status Species
- Cultural Resources
- Air Quality
- Greenhouse Gas Emissions and Energy Consumption
- Noise
- Recreation
- Hazards and Hazardous Materials

In certifying the Final EIS/EIR and Supplemental EA/EIR and approving the Project, the CVFPB imposed various mitigation measures for Project-related significant effects on the environment as conditions of Project approval and concluded that Project-related impacts would be substantially lessened with implementation of these mitigation measures; however, even with the integration of all feasible mitigation, the CVFPB concluded in the EIS/EIR and Supplemental EA/EIR that some of the identified impacts would remain significant. As a result, the CVFPB adopted a Statement of Overriding Considerations to support its approval of the Project despite the significant and unavoidable impacts. The CVFPB determined that, after mitigation, the Project may still have significant impacts on Visual Resources, Vegetation and Wildlife, Transportation and Circulation, and Recreation. Because two of these significant impacts (Visual Resources and Vegetation and Wildlife) may occur on lands under the jurisdiction of the Commission, the Commission also adopts a Statement of Overriding Considerations set forth in this exhibit as part of its approval.

As a responsible agency, the Commission complies with CEQA by considering the EIS/EIR and Supplemental EA/EIR and reaching its own conclusions on whether, how, and with what conditions to approve a project. In doing so, the Commission may require changes in a Project to lessen or avoid the effects, either direct or indirect, of that part of the Project which the Commission would be called on to carry out or approve. In order to ensure the identified mitigation measures (MMs) and/or Project revisions are implemented, the Commission adopts a Mitigation Monitoring Program (MMP) as set forth in Exhibit C as part of its Project approval.

2.0 ADMINISTRATIVE RECORD OF PROCEEDINGS AND CUSTODIAN OF THE RECORD

These Findings are supported by substantial evidence contained in the EIS/EIR and Supplemental EA/EIR and other relevant information provided to the Commission or existing in its files, all of which is contained in the administrative record. The administrative record is located at the California State Lands Commission, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825. The custodian for the administrative record is the California State Lands Commission Division of Environmental Planning and Management.

3.0 FINDINGS

The Commission's role as a responsible agency affects the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each "public agency" that approves a project for which an EIR has been certified that identifies one or more significant impacts on the environment (Pub. Resources Code, § 21081, subd. (a); State CEQA Guidelines, § 15091, subd. (a).) Because the EIS/EIR and Supplemental EA/EIR certified by the CVFPB for the Project identify potentially significant impacts that fall within the scope of the Commission's approval, the Commission makes the Findings set forth below as a responsible agency under CEQA. (State CEQA Guidelines, § 15096, subd. (h); *Riverwatch v. Olivenhain Mun. Water Dist.* (2009) 170 Cal.App.4th 1186, 1202, 1207).

While the Commission must consider the environmental impacts of the Project as set forth in the EIS/EIR and Supplemental EA/EIR, the Commission's obligation to mitigate or avoid the direct or indirect environmental impacts of the Project is limited to those parts which it decides to carry out, finance, or approve (Pub. Resources Code, § 21002.1, subd. (d); State CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because the Commission's exercise of discretion involves only issuing a General Lease – Public Agency Use for this Project, the Commission is responsible for considering only the environmental impacts related to lands or resources subject to the Commission's jurisdiction. With respect to all other impacts associated with implementation of the Project, the Commission is bound by the legal presumption that the EIS/EIR and Supplemental EA/EIR fully comply with CEQA.

The Commission has reviewed and considered the information contained in the Project EIS/EIR and Supplemental EA/EIR. All significant adverse impacts of the Project identified in the documents relating to the Commission's approval of a General Lease – Public Agency Use, which would allow access and staging, are included herein and organized according to the resource affected.

These Findings, which reflect the independent judgment of the Commission, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects unless the agency makes written findings for each of those significant effects. Possible findings on each significant effect are:

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

A discussion of supporting facts follows each Finding.

- Whenever Finding (1) occurs, the mitigation measures that lessen the significant environmental impact are identified in the facts supporting the Finding.
- Whenever Finding (2) occurs, the agencies with jurisdiction are specified. These agencies, within their respective spheres of influence, have the responsibility to adopt, implement, and enforce the mitigation discussed.
- Wherever Finding (3) is made, the Commission has determined that, even after implementation of all feasible mitigation measures and consideration of feasible alternatives, the identified impact would exceed the significance criteria set forth in the EIR. Furthermore, to the extent that potentially feasible measures have been alleged or proposed, the Findings explain why certain economic, legal, social, technological, or other considerations render such possibilities infeasible. The significant and unavoidable impacts requiring Finding (3) are identified in the Final EIR, discussed in the Responses to Comments, and explained below. Having done everything it can to avoid and substantially lessen these effects consistent with its legal authority and CEQA, the Commission finds in these instances that overriding economic, legal, social, and other benefits of the approved Project outweigh the resulting significant and unavoidable impacts. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in the EIS/EIR and Supplemental EA/EIR.

A. SUMMARY OF FINDINGS

Based on public scoping, there are no resource areas in which the Project would result in no impacts or less than significant impacts. For the remaining potentially significant effects, the Findings are organized by significant impacts within the resource areas as presented below.

² See Public Resources Code section 21081, subdivision (a) and State CEQA Guidelines section 15091, subdivision (a).

B. POTENTIALLY SIGNIFICANT IMPACTS

The impacts identified in Table 1 were determined in the Final EIS/EIR and Supplemental EA/EIR to be potentially significant absent mitigation. After application of mitigation, however, several impacts were determined to be less than significant (LTSM). For the full text of each mitigation measure (MM), please refer to Exhibit C, Attachment C-1. However, even with the integration of all feasible mitigation, the USACE/CVFPB concluded in the EIS/EIR and Supplemental EA/EIR that the other identified potentially significant impacts would remain significant. Table 1 identifies those impacts that the USACE/CVFPB determined would be significant and unavoidable (SU) after mitigation.

Table 1 – Significant Impacts by Issue Area

Environmental Issue Area	Impact Nos.	
	LTSM	SU
Visual Resources	VIS-2, -3	VIS-1
Vegetation and Wildlife	VEG-2	VEG-1
Fisheries	FISH-1	
Special-Status Species	SSS-2, -4, -10, -11, -12, -14, -15	
Cultural Resources	CR-1, CR-2	
Air Quality	AQ-1, -2, -3	
Greenhouse Gas Emissions and Energy Consumption	GHG-1	
Noise	NOISE-1	
Recreation		REC-1
Hazards and Hazardous Materials	HAZ-1	

As a result, the Commission adopts the Statement of Overriding Considerations set forth as part of this Exhibit to support its approval of the Project despite the significant and unavoidable impacts.

C. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION (LTSM)

The impacts identified below were determined in the EIS/EIR and Supplemental EA/EIR to be potentially significant absent mitigation; after application of mitigation, however, the impacts were determined to be less than significant. Numbering of the impacts has been added to provide additional clarity.

1. VISUAL RESOURCES

CEQA FINDING NO. VIS-2

Impact: **Impact VIS-2. Result in Loss of Vegetation Due to Removal and Construction of Levee Improvements Resulting in Short-Term Effects on Visual Resources of Mature Vegetation or Result in Long-Term Adverse Impacts on Visual Resources to Users of the American River Parkway.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Some of the smaller staging areas for Site 2-1 would be located on landside areas south of H Street within the Sacramento State campus in a heavily urbanized area and within view of residents and commuters. In addition, commuters and recreational users of the American River Parkway are able to view the areas where levee improvement and staging areas would be located. Clearing of existing grasses and nonnative vegetation would also occur at the Glenn Hall Park mitigation site, and recreational users of the American River Parkway would be able to view these areas.

Additional elderberry plants and plants suitable for shaded riverine aquatic habitat within the Parkway would be planted to mitigate for effects of construction on these habitats. The plantings within the American River Parkway would result in an increase in vegetation that would improve the visual quality along the American River. In addition, the incorporation of more areas of plantings and design features would reduce the intensity of erosion and launchable rock impacts on visual resources by providing design elements that would help to attenuate extreme erosion events and protect newly planted vegetation maturing along the bank of the levees. MMs VEG-1, VEG-2, and SRA-1 would reduce the Project's impacts to a less than significant level.

- **MM VEG-1:** Retain, Protect, and Plant Trees On-Site
- **MM VEG-2:** Compensate for Riparian Habitat Removal
- **MM SRA-1:** Implement Measures to Avoid, Minimize, and Compensate for Effects on Shaded Riverine Aquatic Habitat

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. VIS-3

Impact: **Impact VIS-3. Create a New Source of Substantial Light or Glare that Would Adversely Affect Day or Nighttime Views in the Area.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

During construction of the Project, staging areas would have lighting for the purposes of security of construction equipment and stored materials resulting in new sources of nighttime light that would be visible by neighboring residences and vehicles passing near the staging areas; however, these light sources would in some cases be adjacent to existing bright lights (e.g., along H Street, at the parking lot and tennis courts of Glenn Hall Park). However, some lights would potentially illuminate adjacent residences. This would result in a short-term temporary significant impact.

Construction contractors would ensure that all temporary lighting used for security of the staging areas is shielded or directed to avoid or minimize any direct illumination onto light-sensitive receptors located outside of the Project Area. MM VIS-1 would reduce the impact of nighttime light to a less-than-significant level.

- **MM VIS-1:** Shield Temporary Nighttime Lighting

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

2. HYDROLOGY AND WATER QUALITY

CEQA FINDING NO. WQ-1

Impact: **Impact WQ-1. Violate Any Water Quality Standards or Waste Discharge Requirements or Otherwise Substantially Degrade Surface or Groundwater Quality, Result in Substantial Erosion or Siltation on- or off-site, or Conflict with or Obstruct Implementation of a Water Quality Control Plan.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Construction of the Project would include ground disturbance activities that could expose soils to increased rates of erosion during storm events that could increase the rate of sedimentation in receiving waters. Sediment input into the river and turbidity

caused by sediment-laden runoff or placement of rock in the river could cause a turbidity plume in the water that would affect aquatic organisms, including benthic organisms and fish. Use and storage of equipment could result in the accidental spills of fuel, oil, and other construction equipment related materials that could also be carried in stormwater runoff to receiving waters. As a result, there is the potential for construction activities to adversely affect receiving water quality.

A turbidity curtain and/or other turbidity minimization measure would be installed prior to any in-water work conducted on the waterside of the levee when there is a potential for listed fish within range. The work limits and staging areas would be fenced (orange construction fencing) to protect sensitive habitat and to identify disturbance area limits. Coir or rice straw wattles or other sedimentation reducing measures would be installed where feasible downstream from any ground disturbing activities that have the potential to cause sediment runoff into the river. Implementing MMs SRA-1 and WQ-1 would reduce the Project's impacts to a less than significant level.

- **MM WQ-1:** Prepare and Implement a Storm Water Pollution Prevention Plan, Spill Prevention Control and Countermeasures Plan, and Associated Best Management Practices
- **MM SRA-1:** Implement Measures to Avoid, Minimize, and Compensate for Effects on Shaded Riverine Aquatic Habitat

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

3. VEGETATION AND WILDLIFE

CEQA FINDING NO. VEG-2

Impact: **Impact VEG-2. Result in Long-Term Adverse Effects on Riparian Habitat and Waters of the United States.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

The design of the Project would allow for the retainage of some large riparian trees; others would be removed, reducing the shade and organic input to the adjacent aquatic habitat and disturbing nesting birds.

Project designs would be refined to reduce impacts on vegetation and wildlife to the extent practicable. Refinements implemented to reduce the loss of riparian habitat include reducing the impact footprint, construction bank protection rather than launchable rock trench were feasible, and designing planting benches. Where practicable, trees would be retained in locations where the bank protection and planting

bench are constructed. The planting bench would be vegetated with native riparian plant species to replace habitat on-site that would be removed from construction. To compensate for removal of riparian habitat, replacement habitat would be created at a 2:1 ratio to account for the temporal loss of habitat while newly created habitat is growing. The replacement riparian habitat would create habitat connectivity and wildlife migratory corridors without compromising the integrity of the flood control features, the American River Parkway's flood conveyance capacity, and the American River Parkway's management goals in the Parkway Plan. In addition to the on-site habitat plantings, additional lands within the Parkway would be evaluated for habitat compensation opportunities. The exact location of the compensation lands in the Parkway would be coordinated with the Sacramento County Department of Regional Parks. The replacement habitat would be created in accordance with the Habitat Mitigation Monitoring and Adaptive Management Plan. MMs VEG-1, VEG-2, and BIRD-1 would reduce the Project's impacts to a less than significant level.

- **MM VEG-1:** Retain, Protect, and Plant Trees On-Site
- **MM VEG-2:** Compensate for Riparian Habitat Removal
- **MM BIRD-1:** Avoid and Minimize Effects on Nesting Birds

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

4. FISHERIES

CEQA FINDING NO. FISH-1.

Impact: **Impact FISH-1. Adverse Effects on Fisheries Resources.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Rock placement during bank protection activities and irrigation activities would likely disturb native, resident fish by increasing noise, water turbulence, and turbidity, causing them to move away from the area of rock placement and put them at a slightly increased risk of predation. In addition, construction of bank protection would disturb soils and lead to increased turbidity in the nearshore aquatic habitat. The increase in suspended solids and turbidity would generally be short term, but may affect fish physiology, behavior, and habitat.

The Project includes construction of planting benches and placement of instream woody material to replace habitat removed from construction. Over the long-term, the Project site would support higher quality on shaded riverine aquatic (SRA) habitat than under existing conditions, according to the Standard Assessment Methodology analysis.

Temporary reductions in SRA habitat would be compensated by creating riparian habitat along the American River within the American River Parkway. The U.S. Army Corps of Engineers (USACE) would restrict in-water construction to the general estimated work window of July 1 through October 31 to reduce and avoid impacts to fish species in the river. Additionally, if a hazardous material spill occurs, USACE would conduct a detailed analysis to determine the cause and extent of contamination. Based on this analysis, USACE and its contractors would select and implement measures to control contamination, with a performance standard that surface water quality and groundwater quality must be returned to baseline conditions. MMs FISH-1 and FISH-2 would reduce the Project's impacts to a less than significant level.

- **MM FISH-1:** Observe In-Water Work Windows.
- **MM FISH-2:** Analyze Hazardous Materials Spills and Implement Measures to Control Contamination.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

5. SPECIAL-STATUS SPECIES

CEQA FINDING NO. SSS-2.

Impact: **Impact SSS-2. Adverse Effect on Special Status Species: Western Yellow Billed Cuckoo.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Riparian habitat within the Project area could support foraging Western yellow billed cuckoos, and the construction of Site 2-1 would result in the loss of 10.43 acres of riparian habitat.

By conducting environmental awareness programs, retaining and protecting riparian trees, and compensating for the removal of riparian habitat, MMs BIRD-1, VEG-1, and VEG-2 would reduce the Project's impacts to a less than significant level.

- **MM BIRD-1:** Avoid and Minimize Effects on Nesting Birds.
- **MM VEG-1:** Retain, Protect, and Plant Trees On-Site.
- **MM VEG-2:** Compensate for Riparian Habitat Removal.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. SSS-4.

Impact: **Impact SSS-4. Adverse Effect on Special Status Species: Bank Swallow.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Bank swallows could be directly affected if the Project's proposed erosion protection measures were implemented during the species' nesting season (April 1 through August 31), as eroding banks support a large proportion of California's breeding population of bank swallows.

By avoiding construction in these areas during the bank swallow's nesting season, MM BIRD-1 would reduce the Project's impacts to a less than significant level.

- **MM BIRD-1:** Avoid and Minimize Effects on Nesting Birds.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. SSS-10.

Impact: **Impact SSS-10. Adverse Effect on Migratory Nesting birds**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Many non-listed bird species that are otherwise protected by the Migratory Bird Treaty Act and the California Fish and Game Code are expected to be present in the Project Area. These include common passerine, raptor, and wading bird species. General disturbance, including exposure to noise, vibration, and dust, could adversely affect nesting birds by altering their nesting behaviors (e.g., prompting adults to abandon eggs or chicks in nests).

By conducting environmental awareness programs and breeding season surveys, implementing avoidance buffers, and avoiding construction during nesting seasons, MM BIRD-1 would reduce the Project's impacts to a less than significant level.

- **MM BIRD-1:** Avoid and Minimize Effects on Nesting Birds.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. SSS-11.

Impact: **Impact SSS-11. Adverse Effect on Western Pond Turtle**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Construction equipment accessing areas occupied by western pond turtle could strike turtles that are nesting, basking, or traversing upland habitat, resulting in mortality of these animals. Western pond turtles may also be crushed or entombed when construction equipment causes burrows to collapse. In addition, fuel, oil, other petroleum products, and other chemicals used during maintenance activities could be accidentally introduced into waterways. In sufficient concentrations, these contaminants would be toxic to western pond turtles and their prey species.

With pre-construction surveys, relocation with California Department of Fish and Wildlife approval, and stop-work orders, MMs TURTLE-1 and WQ-1 would reduce the impact of construction on western pond turtle to a less-than-significant level.

- **MM TURTLE-1:** Implement Measures to Avoid and Minimize Effects on Western Pond Turtle.
- **MM WQ-1:** Prepare and Implement a Storm Water Pollution Prevention Plan, Spill Prevention Control and Countermeasures Plan, and Associated Best Management Practices.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. SSS-12.

Impact: **Impact SSS-12. Adverse Effect on Special Status Species: Special-Status Bats.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Tree removal in riparian habitat could adversely affect breeding and non-breeding pallid bats by causing the loss of established roosts and potential roosting habitat. Project construction work around vehicle and pedestrian bridges crossing the American River could also disturb pallid bats if they were occupying any of the bridges. General construction-related disturbance, including exposure to noise, vibration, and dust, could adversely affect breeding and non-breeding bats.

Pre-construction surveys would be conducted to determine if bat maternity roosts are present within the Project area. If removal of trees with suitable roost cavities and/or dense foliage cover must occur during the bat pupping season (May 1 through August 31), within 30 days of tree removal activities, trees would be surveyed by a qualified biologist for the presence of features that may function as special status bat maternity roosting habitat. Trees that do not contain potential maternity roosting habitat can be removed. For trees that contain suitable maternity roosting habitat, surveys for active maternity roosts shall be conducted by a qualified biologist in trees designated for removal. Appropriate buffers around discovered roost sites would be implemented. If construction activities must occur within the buffer, a qualified biologist would monitor activities and would have the power to stop work activities that threatened to cause adverse impacts to the roost. All trees designated for removal would be surveyed to determine if any trees contain habitat for special-status bats. Trees determined to contain habitat for special-status bats, such as cavities, cracks, or crevices, would be removed or trimmed using a two-phased system conducted over multiple days to allow bats to vacate these features. Such trees would be removed under the supervision of a qualified biologist. Implementation of MM BATS-1 would reduce the Project's impacts to a less than significant level.

MM BATS-1: Implement Measures to Protect Maternity Roosts of Special Status Bats.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. SSS-14.

Impact: **Impact SSS-14. Adverse Effect on Special Status Species: Sanford's Arrowhead.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Sanford's arrowhead is an aquatic emergent herbaceous plant that grows in a variety of shallow freshwater habitats. Sanford's arrowhead plants could be crushed by construction equipment or trampled by construction personnel, resulting in damage to or mortality of the plants. Ground disturbance for the Project's bank improvement actions would increase the potential for Sanford's arrowhead plants to be unintentionally buried or removed.

As part of the final construction design, USACE would adjust construction access routes and footprint of erosion protection activities to ensure the avoidance of known Sanford's arrowhead plants. The location of the Sanford's arrowhead plants identified during the 2019 survey would be avoided during construction. Herbicides would not be

used within 3 meters of a known Sanford's arrowhead plant. MM PLANT-1 would reduce the Project's impacts to a less than significant level.

- **MM PLANT-1:** Implement Measures to Avoid and Minimize Effects on Special Status Plants.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. SSS-15.

Impact: **Impact SSS-15. Adverse Effect on Special Status Species: Special-Status Fish**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Implementation of the erosion protection measures and irrigation activities at the Glenn Hall mitigation site would result in adverse effects on juvenile and smolt winter-run Chinook salmon, their critical habitat, and essential fish habitat. Construction activities that increase noise, turbidity, and suspended sediment may disrupt feeding or temporarily displace fish from their preferred habitat. Physical damage to or harassment of listed fish species would be low during the construction months. Adults would not sustain any physical damage as a result of construction because their size, preference for deep water, and crepuscular migratory behavior would enable them to avoid most temporary, nearshore disturbance that occurs during typical daylight construction hours.

Restricting in-water work activities to a work window of July 1 through October 31 and implementing the avoidance and minimization measures described below would minimize, but not avoid, potential construction-related effects on special-status fish species in the American River. Based on the Project's on-site mitigation, salmonid habitat is expected to show a long-term positive response to the Project based on the standard assessment methodology analysis when both instream woody material and planting benches are incorporated into the Project conditions. In addition, USACE would provide additional compensation for impacts to salmonid habitat at an off-site location according to the National Marine Fishery Service's Biological Opinion. The Project is not likely to result in long-term habitat losses to the American River due to USACE implementing applicable minimization and compensatory mitigation measures. The conclusion is based on the USACE commitment to minimize temporary habitat losses through the incorporation of on-site mitigation features and implementation of off-site habitat compensatory mitigation. MMs FISH-1 to FISH-3, and SRA-1 would reduce the Project's impacts to a less than significant level.

- **MM FISH-1:** Observe In-Water Work Windows

- **MM FISH-2:** Analyze Hazardous Materials Spills and Implement Measures to Control Contamination
- **MM FISH-3:** Implement Measures to Avoid and Minimize Effects on Listed Fish Species
- **MM SRA-1:** Implement Measures to Avoid, Minimize, and Compensate for Effects on Shaded Riverine Aquatic Habitat

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

6. CULTURAL RESOURCES

CEQA FINDING NO. CR-1

Impact: **Impact CR-1. Damage to or Destruction of Unknown or Subsurface Prehistoric-Period Archaeological Sites, and Native American Identified Tribal Cultural Resources.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Project construction would include substantial ground disturbance, including bank excavation and riprap placement, and use of staging areas. These earthmoving activities could result in damage to or destruction of unknown or subsurface historic-period sites, prehistoric-period archeological sites, or Native American-identified Tribal cultural resources (TCRs). To date, cultural resources investigations have not identified archeological resources or TRCs in the Area of Potential Affect (APE) for the Project. However, Native American consultation has not been completed, and it is possible that unknown archeological resources and TCRs could be identified in the APE during additional studies and consultation conducted. Unknown archeological resources and TCRs also could be discovered and inadvertently damaged during Project construction.

The Project would have no adverse effect on the American River levee, the only recorded Historic Property within the APE. Implementing mitigation measures would reduce the potential for a significant effect resulting from inadvertent damage to or destruction of presently undocumented archaeological resources and TCRs because appropriate treatment and protection measures must be implemented. MMs CR-1 to CR-5 would reduce the Project's impacts to a less than significant level.

- **MM CR-1:** Resolve Adverse Effects through a Programmatic Agreement and Historic Properties Treatment Plan
- **MM CR-2:** Prepare an Archaeological Discovery Plan and an Archaeological Monitoring Plan

- **MM CR-3:** Conduct Cultural Resources Awareness Training
- **MM CR-4:** Implement Procedures for Inadvertent Discovery of Cultural Material
- **MM CR-5:** Evaluate Any Tribal Cultural Resources Discovered and Implement Avoidance and Minimization Measures to Avoid Significant Adverse Effects

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. CR-2

Impact: **Impact CR-2. Potential Damage to or Destruction of Previously Undocumented Human Remains.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

Although no human remains have been discovered in or near the APE, they could be encountered during earthmoving activities associated with the Project.

Implementing Mitigation Measure CR-6 would reduce the potential for a significant effect resulting from inadvertent damage to or destruction of presently undocumented human remains. If human remains are discovered during Project-related construction activities, disturbances in the area of the find must be halted and appropriate treatment and protection measures must be implemented. These steps must be taken in consultation with the National American Heritage Commission, most likely descendant, and landowners, in compliance with California Health and Safety Code Section 7050 et seq. and Public Resources Code Section 5097.9 et seq. Implementing Mitigation Measure CR-6 would reduce the Project's impact to a less than significant level.

- **MM CR-6:** Implement Procedures for Inadvertent Discovery of Human Remains.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

7. AIR QUALITY

CEQA FINDING NO. AQ-1

Impact: **Impact AQ-1. Potential Conflict with Air Quality Plan or Contribute Substantially to Air Quality Violation.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed on State lands as part of the Project have the potential to contribute to the Project's maximum daily and annual construction emissions, which would exceed the local air agency significance thresholds for oxides of nitrogen (NO_x) and particulate matter equal to or less than 10 micrometers in diameter (PM₁₀).

USACE would require that the construction contractor implement the Sacramento Metropolitan Air Quality Management District's (SMAQMD's) Basic Construction Emission Control Practices and Enhanced Fugitive PM Dust Control Practices. Contractors would be required to use a fleet-wide average of 90 percent Tier 4 emissions vehicles. USACE would also contribute to SMAQMD's off-site mitigation fee programs for NO_x and PM₁₀ emissions in excess of significance thresholds. Implementing MMs AIR-1 through AIR-5 would reduce or offset the Project's emissions to a less than significant level.

- **MM AQ-1:** Implement the Sacramento Metropolitan Air Quality Management District's Basic Construction Emission Control Practices
- **MM AQ-2:** Implement Enhanced Fugitive Dust Control Practices
- **MM AQ-3:** Develop and Implement a Plan for Enhanced On-Site Exhaust Controls
- **MM AQ-4:** Use Electric Construction Equipment
- **MM AQ-5:** Pay NO_x Mitigation Fee to SMAQMD

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. AQ-2

Impact: **Impact AQ-2. Potentially Expose Sensitive Receptors to Short-Term Dust Emissions.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Construction of the Project would result in short-term dust emissions from grading and earth moving activities at the Project construction sites and the soil borrow sites. The amount of dust generated would be highly variable and is dependent on the size of the disturbed area at any given time, amount of activity, soil conditions, and meteorological conditions. Nearby land uses, especially those residences and schools located downwind of the Project sites could be exposed to dust generated during construction activities, indirectly resulting in potential adverse health effects.

Implementing MM AIR-2, which includes watering, vegetative ground cover, and the use of wood chips off of paved roads, would reduce or offset the Project's emissions to a less than significant level.

- **MM AQ-2:** Implement Enhanced Fugitive Dust Control Practices

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. AQ-3

Impact: **Impact AQ-3. Potentially Expose Sensitive Receptors to Short-Term Emissions of Toxic Air Contaminants.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Construction of the Project, including the Glenn Hall Park mitigation site, would result in short-term diesel particulate emissions from on-site heavy-duty equipment and on-road haul trucks. Diesel PM, which is classified as a carcinogen, is the primary pollutant of concern with regard to indirect health risks to sensitive receptors. Nearby land uses, especially those residences and schools located downwind of the Project sites could be exposed to diesel PM during construction activities, indirectly resulting in potential adverse health effects.

With the use of basic construction emissions control practices, measures to reduce fugitive dust, plans for enhanced on-site exhaust controls, the use of electric equipment,

and the payment of mitigation fees to offset the Project's NO_x emissions, implementing MMs AIR-1 through AIR-4 would reduce or offset the Project's emissions to a less than significant level.

- **MM AQ-1:** Implement the Sacramento Metropolitan Air Quality Management District's Basic Construction Emission Control Practices
- **MM AQ-2:** Implement Enhanced Fugitive Dust Control Practices
- **MM AQ-3:** Develop and Implement a Plan for Enhanced On-Site Exhaust Controls
- **MM AQ-4:** Use Electric Construction Equipment

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

8. GREENHOUSE GAS EMISSIONS AND ENERGY CONSUMPTION

CEQA FINDING NO. GHG-1

Impact: **Impact GHG-1. Temporary, Short-term Generation of Greenhouse Gas Emissions or Conflict with an Applicable GHG Emissions Reduction Plan and Effects of Climate Change.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Activities on state lands would contribute to emissions from construction equipment and worker vehicles would include carbon dioxide (CO₂) and other "greenhouse gases" (GHGs) that can contribute to climate change. Estimated emissions of GHGs, expressed as CO₂ equivalents (CO₂e), would exceed SMAQMD's threshold of 1,000 metric tons CO₂e per year during the estimated construction period.

A GHG emission reduction plan would be implemented. Mitigation would require efficient operation of construction equipment engines, minimization of idling equipment when not in use, and enhanced emissions reductions for construction equipment used at the Project site. USACE would also purchase carbon credits from programs approved by SMAQMD to mitigate CO₂e emissions in excess of 1,000 metric tons per year. Implementing MM GHG-1 would reduce or offset the Project's impacts from temporary, short-term generation of GHG emissions to a less than significant level.

- **MM GHG-1:** Avoid, Minimize, and Compensate for Greenhouse Gas Emissions Effects.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

9. NOISE

CEQA FINDING NO. NOISE-1

Impact: **Impact NOISE-1. Temporary Increase in Ambient Noise Levels or Exposure of Sensitive Receptors to Excessive Noise or Vibration.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Construction at Site 2-1 and the Glenn Hall Park mitigation site would generate temporary construction noise and vibration from equipment operating at each work location, and from the transport of construction workers, construction materials, and equipment to and from each work location.

USACE and CVFPB would require a noise control plan and actions to reduce the effects of construction. These actions could include scheduling louder activities for daytime hours, using less noisy equipment where available, and locating and routing activities to minimize effects on sensitive receptors. Implementing MMs NOISE-1 and NOISE-2 would reduce significant impacts related to construction noise and construction traffic noise to a less than significant level.

- **MM NOISE-1:** Implement Noise Reduction Practices
- **MM NOISE-2:** Implement Vibration Control Measures

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

10. HAZARDS AND HAZARDOUS MATERIALS

CEQA FINDING NO. HAZ-1.

Impact: **Impact HAZ-1. Adverse Effects on Fisheries Resources.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Implementation of the proposed levee improvements and mitigation area would involve the use of potentially hazardous materials commonly used in construction projects, such

as fuels, oils and lubricants, and cleaners that could contaminate onshore and offshore areas.

Compliance with applicable regulations would reduce the potential for accidental release of hazardous materials during transport and construction activities. Implementing MM HAZ-1 would reduce significant impacts related to hazardous materials to a less than significant level.

- **MM HAZ-1:** Implement Stormwater Pollution Prevention Plan Best Management Practices and Test Site for Contaminants Prior to Construction.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

D. SIGNIFICANT AND UNAVOIDABLE IMPACTS

The following impacts were determined in the EIS/EIR and Supplemental EA/EIR to be significant and unavoidable. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

1. VISUAL RESOURCES

CEQA FINDING NO. VIS-1

Impact: **Impact VIS-1. Result in Short-Term Impacts on the Visual Character of the American River Parkway During Construction.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

(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 EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

The presence of construction equipment, the loss of vegetation due to removal and construction of levee improvements, and the clearing of the Glenn Hall Park mitigation site would result in significant and unavoidable short-term effects on visual resources of the mature vegetation.

No feasible mitigation measures were identified to reduce this short-term impact. It is infeasible to construct the Project without construction crews and equipment. Screening views of the construction crews and equipment would be costly and cause their own

impacts on visual quality. There are no other feasible mitigation measures available to further avoid or reduce this short-term impact.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

2. VEGETATION AND WILDLIFE

CEQA FINDING NO. VEG-1.

Impact: **Impact VEG-1. Result in Short-Term Adverse Effects on Riparian Habitat and Waters of the United States.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

(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 EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Construction activities would require the removal of riparian habitat within the Project area. Although the design of the Project would allow for the retainage of some large riparian trees, others would be removed, reducing the shade and organic input to the adjacent aquatic habitat. Similarly, most existing instream woody material would be removed, resulting in significant and unavoidable impacts. In addition, there would be a short-term significant and unavoidable effect due to the lag time between when vegetation is removed and when newly planted vegetation can provide an ecological value similar to existing conditions.

On-site replacement habitat would be designed to provide both terrestrial riparian habitat values as well as adjacent aquatic habitat values. Instream woody material in the form of trees and logs, held in place with ropes, are included in the design. However, shade and aquatic vegetation would require a substantial period of time to develop to the same values as are present under existing conditions. Therefore, short-term impact on both riparian and SRA habitats would be significant and unavoidable, MMs VEG-1, VEG-2, and BIRD-1 would reduce the Project's impacts, but not to a less than significant level.

- **MM VEG-1:** Retain, Protect, and Plant Trees On-Site.
- **MM VEG-2:** Compensate for Riparian Habitat Removal.
- **MM BIRD-1:** Avoid and Minimize Effects on Nesting Birds.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

2. RECREATION

CEQA FINDING NO. REC-1

Impact: **Impact REC-1. Temporary and Short-term Changes in Recreational Opportunities during Project Construction Activities.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIS/EIR and Supplemental EA/EIR.

(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 EIS/EIR and Supplemental EA/EIR.

FACTS SUPPORTING THE FINDING(S)

Project construction would result in temporary closures of recreational facilities within the American River Parkway. These closures would result in temporary and short-term significant and unavoidable impacts to recreational opportunities during construction. Recreational opportunities near the Project area could also be diminished due to noise, visual effects, odor, and air pollutants. Within the footprint of the bank protection improvements, construction would require closing informal waterside paths. Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact identified in the Supplemental EA/EIR. However, the impact remains significant and unavoidable.

The CVFPB would implement measures described in MM REC-1 to reduce temporary, short-term effects to recreation. The CVFPB would coordinate with recreational user groups prior to and during construction for input into mitigation measures that would reduce effects to the maximum extent practicable. Advance notice would be given to recreational users with information about anticipated activities and detours within the Project vicinity. Closures of paved trails would be noticed 14 days in advance via signage at the detour locations. Flag persons would be stationed near trail crossings to provide traffic control for construction equipment and recreationalists to prevent accidents. Upon completion of the Project, the CVFPB would coordinate with the City of Sacramento and Sacramento County to restore access and repair any construction-related damage to recreational facilities. The Project would not preclude future access to recreational areas. The implementation of MM REC-1 would reduce impacts to recreation, but not to a less than significant level.

- **MM REC-1:** Avoid and Minimize Effects on Recreational Use.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

E. FINDINGS ON ALTERNATIVES

As explained in *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1000:

When it comes time to decide on project approval, the public agency's decisionmaking body evaluates whether the alternatives [analyzed in the EIR] are actually feasible.... At this final stage of project approval, the agency considers whether '[s]pecific economic, legal, social, technological, or other considerations...make infeasible the mitigation measures or alternatives identified in the environmental impact report.' Broader considerations of policy thus come into play when the decisionmaking body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives [citations omitted].

The EIS/EIR evaluated two Project alternatives which attain all or most of the Project's basic objectives, and the No-Action Alternative that does not meet any of the Project objectives. Other Project alternatives were considered but quickly rejected as infeasible because the levee system within the Project area would remain with a high risk of failure unless they are fortified. Any alternative must fix the levees in place, and because of the large number of houses immediately adjacent to most of the levee within the Project area, any type of setback levee or levee modifications that requires working outside of the existing levee footprint in the Project area would require removing homes and be infeasible. Therefore, there are no other feasible alternatives available to meet all or most of the Project objectives, and significant and unavoidable impacts cannot be further reduced with mitigation measures because all feasible mitigation measures for reducing significant and unavoidable impacts would be implemented.

Based on the EIS/EIR, the Supplemental EA/EIR, and the entire record, the CVFPB made the following Findings with regard to alternatives to the Project:

1. To potentially eliminate or lessen the significance of the Project's significant and unavoidable impacts, the Project would need to be implemented in another location, which is infeasible to address the Project's needs and meet any of the Project's objectives.
2. The social and economic benefits of the Project outweigh the significant and unavoidable effects of the Project, because the Project would reduce the risk of flooding for a major portion of the Sacramento metropolitan area that currently has a high risk of flooding.
3. None of the other alternatives examined in the EIS/EIR and the Supplemental EA/EIR, or any other potential alternative for reducing flood risk within the Project area, would be a feasible means to avoid or eliminate the remaining significant and unavoidable effects.

4. Alternative 2 as described in the EIS/EIR, while still having significant and unavoidable impacts, has a greater benefit to the environment while meeting most of the Project objectives.
5. The No Action Alternative assumes that no work would be completed by USACE and the City of Sacramento and surrounding areas (study area) would continue to be at a very high risk of levee failure and subsequent flooding including a major portion of the Sacramento Metropolitan area.

The No Action Alternative is inconsistent with the objectives of the Project and leaves the study area at an unacceptable level of risk due to flooding.

The No Action Alternative is not a feasible means to avoid risk to avoid the residual significant and unavoidable effects of the Project.

6. Alternative 1 as described in the EIS/EIR includes fix-in-place levee remediation measures to address seepage, slope stability, erosion, and overtopping concerns identified for the American and Sacramento River, Natomas East Main Drain Canal, and Arcade, Dry/Robla, and Magpie Creek levees.

This alternative has greater environmental impacts due to the levee raises and fewer environmental benefits.

Alternative 1 has significant and unavoidable impacts to vegetation and wildlife, recreation, transportation and circulation, visual resources, and cultural resources, and cumulatively significant and unavoidable impacts to vegetation and wildlife, special-status species, cultural resources, air quality, and visual resources.

Alternative 1 is not a feasible means to minimize flood risk and meet all or most of the Project objectives and avoid or minimize the residual significant and unavoidable environmental effects of the Project.

7. Alternative 2 as described in the EIS/EIR includes all levee improvements discussed in Alternative 1, except levee raises along the Sacramento River would be included to a lesser extent. Instead of the full extent of levee raises, the Sacramento Weir and Bypass would be widened to divert more flows into the Yolo Bypass.

Alternative 2 as described in the EIS/EIR has significant and unavoidable impacts to vegetation and wildlife, recreation, transportation and circulation, visual resources, and cultural resources, and cumulatively significant and unavoidable impacts to vegetation and wildlife, special-status species, cultural resources, air quality, and visual resources.

8. Since the CVFPB certified the EIS/EIR on April 22, 2016, and selected Alternative 2, USACE and the CVFPB have refined the design of the Project. The Project has been refined and adjusted to further reduce significant and unavoidable impacts compared to the significant and unavoidable impacts identified in the EIS/EIR and Supplemental EA/EIR.

Based upon the objectives identified in the EIS/EIR and Supplemental EA/EIR, and the detailed MMs imposed upon the Project, the Commission has determined that the Project should be approved, subject to such MMs (Exhibit C, Mitigation Monitoring Program), and that any remaining unmitigated environmental impacts attributable to the Project are outweighed by the following specific economic, fiscal, social, environmental, land use, and other overriding considerations.

4.0 STATEMENT OF OVERRIDING CONSIDERATIONS

A. INTRODUCTION

This section addresses the Commission's obligations under Public Resources Code section 21081, subdivisions (a)(3) and (b). (See also State CEQA Guidelines, §§ 15091, subd. (a)(3), 15093.) Under these provisions, CEQA requires the Commission to balance, as applicable, the economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the Lease approval related to the American River Watershed Common Features, Water Resources Development Act of 2016 Project, Project against the backdrop of the Project's unavoidable significant environmental impacts. For purposes of CEQA, if the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable significant environmental effects, those effects may be considered acceptable, and the decision-making agency may approve the underlying project. (State CEQA Guidelines § 15092, subd. (b)(2)(B).) CEQA, in this respect, does not prohibit the Commission from approving the Lease even if the Project activities as authorized under the Lease may cause significant and unavoidable environmental effects.

This Statement of Overriding Considerations presents a list of: (1) the specific significant effects on the environment attributable to the approved Project that cannot feasibly be mitigated to below a level of significance, (2) benefits derived from the approved Project, and (3) specific reasons for approving the Project.

Although the CVFPB and the Commission have imposed MMs to reduce impacts, impacts remain that are considered significant after application of all feasible mitigation. Significant impacts of the approved Project fall under three resource areas: Visual Resources, Vegetation and Wildlife, and Recreation (see Table 2). These impacts are specifically identified and discussed in more detail in the Commission's CEQA Findings and in CVFPB's EIS/EIR and Supplemental EA/EIR. While the Commission has required all feasible MMs, these impacts remain significant for purposes of adopting this Statement of Overriding Considerations.

Table 2 – Significant and Unavoidable Impacts Identified for the Approved Project

Impact	Impact Description
Visual Resources	
Impact VIS-1. Changes in Scenic Vistas and Existing Visual Character.	The presence of construction equipment, the loss of vegetation due to removal and construction of levee improvements, and the clearing of the Glenn Hall Park mitigation site would result in significant and unavoidable short-term effects on visual resources of the mature vegetation.
Vegetation and Wildlife	
Impact VEG-1. Result in Short-Term Adverse Effects on Riparian Habitat and Waters of the United States.	Construction activities would require the removal of riparian habitat within the Project area. Although the design of the Project would allow for the retainage of some large riparian trees, others would be removed, reducing the shade and organic input to the adjacent aquatic habitat. Similarly, most existing instream woody material would be removed, resulting in significant and unavoidable impacts. In addition, there would be a short-term significant and unavoidable effect due to the lag time between when vegetation is removed and when newly planted vegetation can provide an ecological value similar to existing conditions.
Recreation	
Impact REC-1. Temporary and Short-term Changes in Recreational Opportunities during Project Construction Activities.	Project construction would result in temporary closures of recreational facilities within the American River Parkway. These closures would result in temporary and short-term significant and unavoidable impacts to recreational opportunities during construction. Recreational opportunities near the Project area could also be diminished due to noise, visual effects, odor, and air pollutants. Within the footprint of the bank protection improvements, construction would require closing informal waterside paths. Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact identified in the Final Supplemental EA/EIR. However, the impact remains significant and unavoidable.

B. BALANCING OF BENEFITS AND RISKS ASSOCIATED WITH LEASE APPROVAL

State CEQA Guidelines section 15093, subdivision (a) requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project.

Overriding considerations that support Project approval are as follows:

1. The purpose of the Project is to reduce flood risk to the Sacramento area. Flood risk reduction is necessary to provide economic, social, and other benefits, as flood events are often uncontrolled and can result in deaths or injuries, damage to property and infrastructure, and release of environmental contaminants.
2. Sacramento is identified as one of the most at-risk communities in the nation for flooding, motivating the need to reduce this risk through numerous flood damage reduction measures. The existing system leaves the highly urbanized Sacramento area at an unacceptably high level of flood risk. The American River levees are a key feature for flood risk management for the Sacramento Metropolitan Area.
3. Major storms in 1986 and 1997, as well as significant rainfall in recent years, have caused record flood flows in the American River watershed and high lake levels in Folsom Reservoir. Outflows from Folsom Dam, together with high flows in the Sacramento River, caused the river stages to exceed the designed safety margin of levees protecting the City of Sacramento. Levee failure along the lower American River and Sacramento River could result in flooding of more than 100,000 acres, affecting a population of up to 900,000, with damages totaling up to \$58 billion, depending on the magnitude of the event. A large flood could also result in disruption of drinking water supplies with statewide impacts.
4. The Project incorporates all feasible means to minimize, avoid, and mitigate for potential significant and significant and unavoidable adverse impacts on the environment.
5. Flood risk management benefits potentially provided by the Project outweigh the significant and unavoidable adverse environmental effects of the Project. In light of these considerations, the significant and unavoidable impacts on visual resources, vegetation and wildlife, and recreation are considered acceptable. These benefits override the potential significant and unavoidable impacts resulting from the Project, including all construction, operations, and maintenance components.

C. COMMISSION ADOPTION OF STATEMENT OF OVERRIDING CONSIDERATIONS

As noted above, under Public Resources Code section 21081, subdivisions (a)(3) and (b) and State CEQA Guidelines section 15093, subdivision (a), the decision-making agency is required to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or state-wide environmental benefits, of a proposed Project against its unavoidable environmental risks when determining whether to approve a project.

For purposes of CEQA, if these benefits outweigh the unavoidable significant environmental effects of a proposed project, the decision-making agency may approve the underlying project. CEQA, in this respect, does not prohibit the Commission from approving the Project, even if the activities authorized by that approval may cause significant and unavoidable environmental effects. This balancing is particularly difficult given the significant and unavoidable impacts on the resources discussed in the EIR and these Findings. Nevertheless, the Commission finds, as set forth below, that the benefits anticipated by implementing the Project outweigh and override the expected significant effects.

The Commission has balanced the benefits of the Project against the significant unavoidable impacts that would remain after approval of the lease associated with the Approved Project and with implementation of all feasible mitigation in the EIS/EIR and Supplemental EA/EIR that is adopted as enforceable conditions of the Commission's approval of the Project. Based on all available information, the Commission finds that the benefits of the approved Project outweigh the significant and unavoidable adverse environmental effects, and considers such effects acceptable. The Commission adopts and makes this Statement of Overriding Considerations with respect to the impacts identified in the EIS/EIR and Supplemental EA/EIR and these Findings that cannot be reduced to a less than significant level. Each benefit set forth above or described below constitutes an overriding consideration warranting approval of the Project, independent of the other benefits, despite each and every significant unavoidable impact.

D. CONCLUSION

The Commission has considered the EIS/EIR and Supplemental EA/EIR and all of the environmental impacts described therein including those that cannot be mitigated to a less than significant level and those that may affect Public Trust uses of State sovereign land. Based on the foregoing and pursuant to Public Resources Code section 21081 and State CEQA Guidelines sections 15096 subdivision (h) and 15093, the Commission has considered the fiscal, economic, legal, social, environmental, and public health and safety benefits of the Project and has balanced them against the Project's significant and unavoidable and unmitigated adverse environmental impacts and, based upon substantial evidence in the record, has determined that the benefits of the Project outweigh the adverse environmental effects. The Commission finds that the remaining significant unavoidable impacts of the Project are acceptable in light of these benefits. Such benefits outweigh such significant and unavoidable impacts of the Project and provide the substantive and legal basis for this Statement of Overriding Considerations.

The Commission finds that to the extent that any impacts identified in the EIS/EIR and Supplemental EA/EIR remain unmitigated, MMs have been required to the extent feasible, although the impacts could not be reduced to a less than significant level.

Based on the above discussion, the Commission finds that the benefits of the Project outweigh the significant unavoidable impacts that could remain after mitigation is applied and considers such impacts acceptable.