

Staff Report 05

APPLICANT:

City of Petaluma

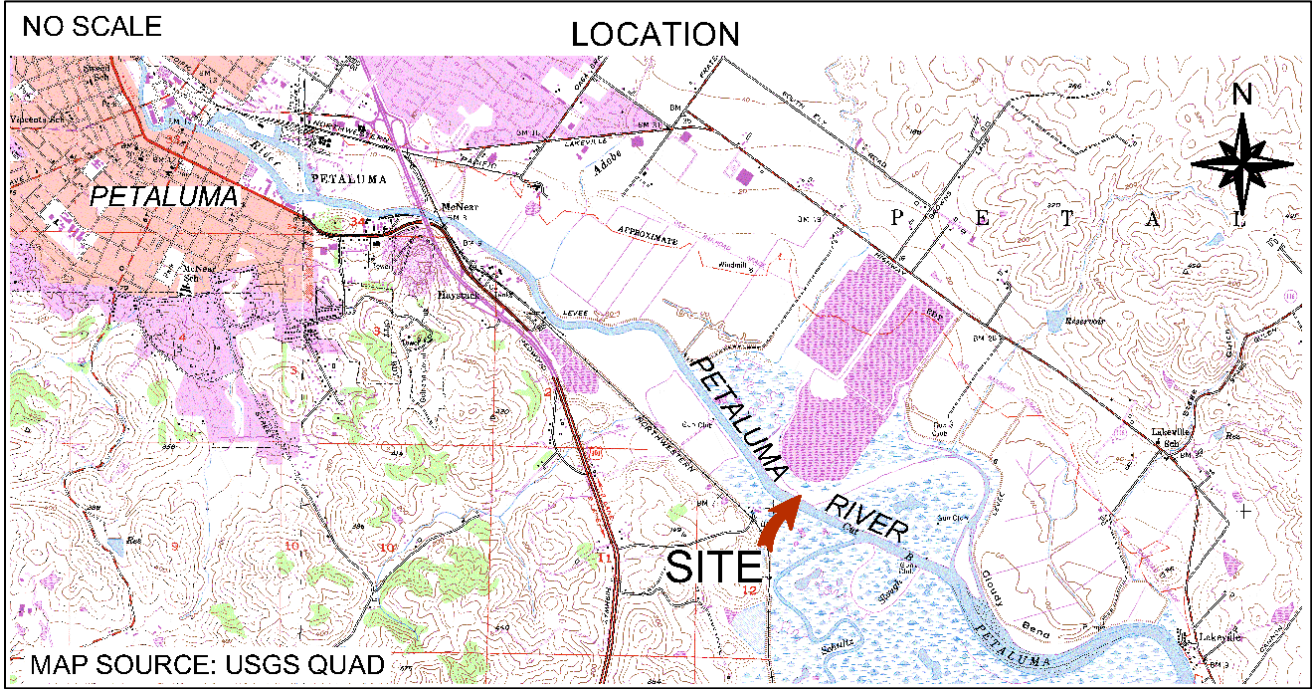
PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Petaluma River, adjacent to Assessor's Parcel Number 068-010-024 in Sonoma County, as described in Exhibit A; attached and by this reference made a part hereof (as shown in Figure 1).

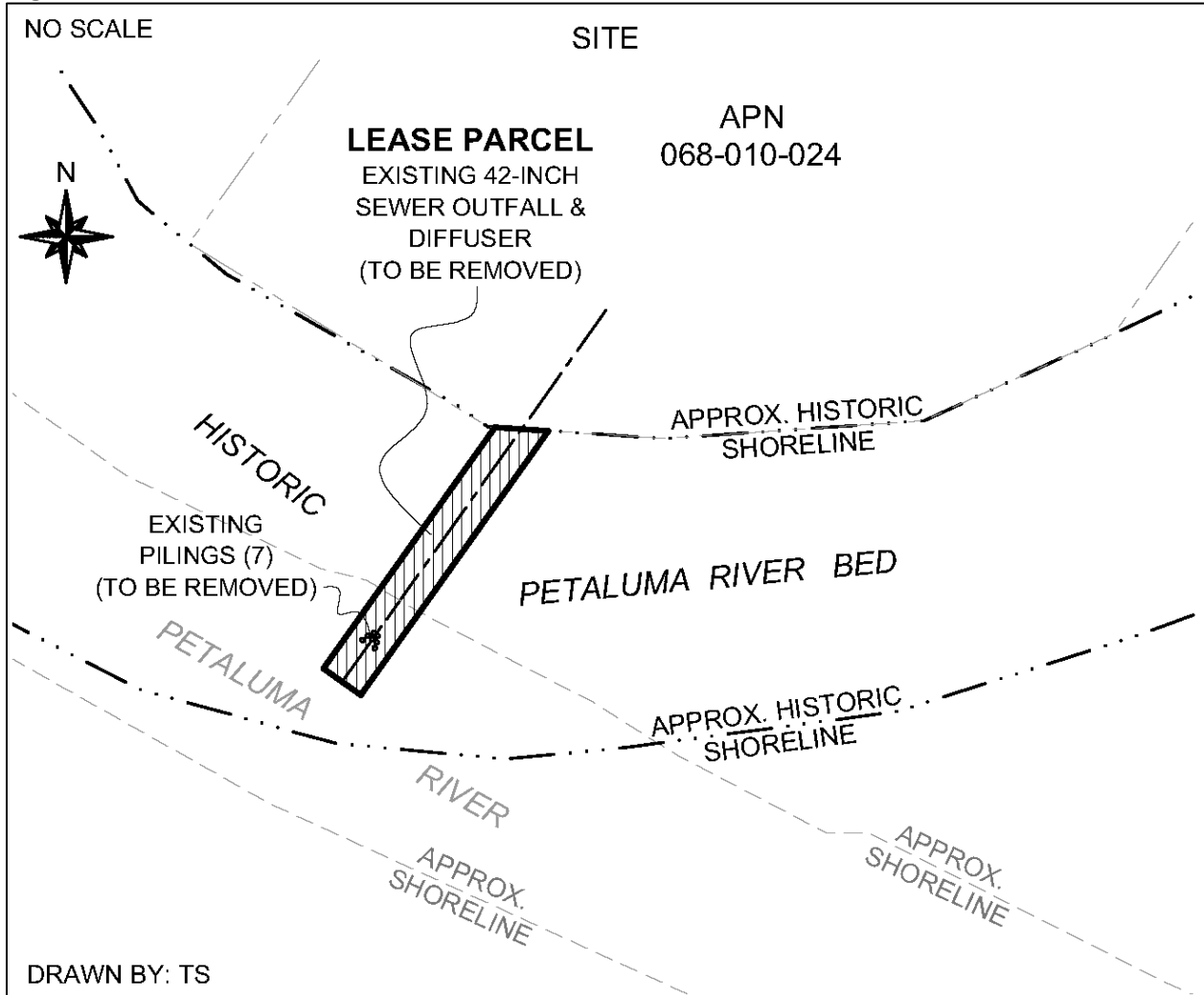
Figure 1. Location



AUTHORIZED USE:

Maintenance and removal of an existing non-operational 42-inch-diameter sewer outfall pipeline, an 18-inch-diameter diffuser, and seven pilings and remediation of the lease area (as shown in Figure 2).

Figure 2. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

TERM:

2 years; beginning June 7, 2024; ending June 6, 2026, unless sooner terminated as provided under this Lease.

CONSIDERATION:

\$140 per year, with an annual Consumer Price Index Adjustment; and \$165 to compensate for the unauthorized occupation of state-sovereign land for the existing improvements for the period prior to June 7, 2024.

SPECIFIC LEASE PROVISIONS:

- Lessee shall indemnify, hold harmless, and, at the option of Lessor, defend Lessor from all damages, injuries, or claims arising from the maintenance of Lessee's facilities within the lease premises. Lessee agrees that this provision and the provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee's unauthorized occupation prior to June 7, 2024.
- All construction activities related to this project shall be conducted in compliance with applicable safety regulations, permits, and conditions stipulated by the involved agencies.
- Lessee shall place warning signage or buoys clearly visible from the shore and in the water both upstream and downstream of the construction site to advise the public to exercise caution.
- Within sixty (60 days) after completion of the removal and remediation project, Lessee shall provide final post construction project verification including a post-construction written narrative report, dated color photos, and an updated Site Map.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6303, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On April 4, 1974, the Commission authorized a 49-year Public Agency Permit (Right of Way) to the City of Petaluma (City) for the construction and maintenance of a 42-inch-diameter sewer outfall pipeline in the Petaluma River ([Item 04, April 4, 1974](#)). On August 26, 1976, the Commission authorized an amendment of lease for the construction and maintenance of an 18-inch-diameter diffuser ([Item 06, August 26, 1976](#)). On September 13, 2007, the Commission authorized an amendment of lease

for the repair to the sewer outfall pipeline and diffuser (which included installation of seven pilings); and placement of warning signs and beacons ([Item 56, September 13, 2007](#)). That permit expired on March 31, 2023. In the fall of 2023, the City installed a new outfall pipeline outside of the Commission's jurisdiction (on City property). The City is applying for a new General Lease – Public Agency Use for the maintenance and removal of the existing non-operational 42-inch-diameter sewer outfall pipeline, an 18-inch-diameter diffuser, seven pilings, and remediation of the lease area in the Petaluma River. The City is requesting authorization to remove the portion of improvements on state sovereign land as obligated under the lease. Additionally, the City will restore the land to its natural and original condition. The City will obtain permits from all applicable regulatory agencies having jurisdiction over the proposed project.

During the proposed 2-year lease term, the City will plan and execute the proposed removal and remediation project in the Petaluma River. The project work within the lease area is tentatively scheduled to begin September 2, 2024, with an estimated completion date of October 15, 2024. The work activities will be performed during the in-water work window as stated on permits from regulatory agencies. The existing improvements will be removed to the fullest extent possible at the time of construction activities. Approximately 405-linear-feet of the pipeline resides on state sovereign land. Work will be completed by barge access. The existing pilings will be extracted by lifting them out of the riverbed. If this method is deemed unsafe at the time of project work, the pilings will be cut at least 2-feet below the mud line in lieu of removal. To avoid impacts to the brackish marsh and limit disturbance, a portion of the pipeline entering into the marsh (not within the lease premises) will be abandoned in place. The project's intent is to cut the pipeline well outside of the marsh habitat and remove the portion of the pipeline within the dredge footprint of the Petaluma River, thereby increasing public safety and reducing potential risk. The exact length of the pipeline to be removed will be based on the conditions of the mudline and marsh extents at the time of removal and remediation work.

On completion of the proposed project, the City will provide post-construction reports, recent color photos, an updated site map, and related documents to Commission staff for review. If any portion of the existing nonoperational sewer outfall pipeline, diffuser, and seven pilings remain on state sovereign land, the City will submit a new lease application to the Commission for its review and approval.

The pipeline is in an area with moderate recreational usage. Commission staff believes that the proposed lease for the removal and remediation work in the

Petaluma River will not substantially interfere with the Public Trust needs and values at this location because most of the pipeline is buried below the bed of the river and scheduled for removal as authorized in permits from other agencies. Public access to the river is located upstream and downstream of the pipeline at various points along the Petaluma River. The City will post signage to notify the public of work in the project area, as well as notifying the Division of Boating and Waterways.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. In addition, the lease has a limited 2-year term and does not grant the lessee exclusive rights to the lease premises. Furthermore, the proposed lease will allow the City to remove nonoperational improvements on state sovereign land and restore the land to its natural state, consistent with its lease obligations.

Staff recommends that the Commission accept compensation from the City for the unauthorized occupation of State land in the amount of \$165 for the period prior to June 7, 2024. The proposed lease will require the City to indemnify the State for the entire period of occupation prior to June 7, 2024, ensuring the State is protected. The proposed lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

CLIMATE CHANGE:

Climate change impacts, including sea level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The facilities are located on the Petaluma River, in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea level rise.

The California Ocean Protection Council updated the *State of California Sea-Level Rise Guidance* in 2018 to provide a synthesis of the best available science on sea level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea level rise scenario for the lease area as listed in Table 1.

Table 1. Projected Sea Level Rise for San Francisco

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, [State of California Sea-Level Rise Guidance: 2018 Update](#)

Note: Projections are with respect to a 1991 to 2009 baseline.

This effect could increase the Petaluma River's inundation levels within the lease area. In addition, as stated in the [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, fire, drought, extreme heat, and storms (especially when coupled with sea level rise). In rivers and tidally influenced waterways, 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. Climate change and sea level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The existing outfall and pilings will be removed from the Petaluma River and would no longer be affected by climate change impacts. However, if the pilings cannot be fully removed, and will need to remain in the Petaluma River, they would be cut to a minimum of 2 feet below the mud line. While unlikely, changing erosion rates could expose the remaining pilings. These structures would then need further action to ensure they do not become dislodged, degraded, or pose other future risks to public safety and navigation.

Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are located in an area that may be subject to the effects of climate change, including sea level rise.

CONCLUSION:

For all the reasons above, staff believes that issuance of the proposed lease will not substantially interfere with the public rights to navigation and fishing; or substantially

interfere with the Public Trust needs and values at this location, at this time, for the term of the lease; 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. The lessee has no right to a new lease or to renewal of any previous lease.
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 Environmental Impact Report (EIR), State Clearinghouse No. 2001052089, was prepared by the City of Petaluma (City) and certified on August 5, 2002, for this project. The City also adopted an Addendum to the EIR on August 8, 2022. As part of its project approval, the City made a Statement of Facts and Findings, a Statement of Overriding Considerations, and adopted a Mitigation Monitoring Program. Staff has reviewed these documents and prepared an independent Mitigation Monitoring Program (MMP) (attached, Exhibit A) that incorporates the City's document. Staff recommends adoption of Exhibit A 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 B. The Findings determined that all potential impacts within the Commission's leasing jurisdiction would be less than significant or less than significant with mitigation. The City's Findings identified a potentially significant impact to Agriculture despite mitigation measures and therefore, the City prepared a Statement of Overriding Considerations made pursuant to the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15093). However, this impact is outside the jurisdiction and approval authority of the Commission, and a Statement of Overriding Considerations is not required by the Commission. Staff recommends the Commission adopt the Findings contained in the attached Exhibit B.

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 participation from the agency

nominating such lands through the CEQA review and permitting process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service
- National Marine Fisheries Service
- California Department of Fish and Wildlife
- San Francisco Bay Regional Water Quality Control Board
- San Francisco Bay Conservation and Development Commission

EXHIBITS:

- A. Mitigation Monitoring Program
- B. Statement of Findings

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an EIR, State Clearinghouse No. 2001052089, was prepared by the City of Petaluma (City) and certified on August 5, 2002, and that an Addendum to the EIR was adopted on August 8, 2022, for this Project and that the Commission has reviewed and considered the information contained therein; that in the Commission's independent judgment, the scope of activities to be carried out under the lease to be issued by this authorization have been adequately analyzed; that none of the events specified in Public Resources Code section 21166 or the State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impact has occurred; and, therefore no additional CEQA analysis is required.

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

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 B.

Determine that the project, as approved, will not have a significant effect on the environment.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

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

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.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$165 for the unauthorized occupation of State land prior to June 7, 2024
2. Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning June 7, 2024, for a term of 2-years, for the maintenance and removal of an existing non-operational sewer outfall pipeline, an 18-inch-diameter diffuser, and seven pilings, and remediation of the lease area; annual rent in the amount of \$140, with an annual Consumer Price Index adjustment.

EXHIBIT A
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
PETALUMA WATER RECYCLING FACILITY OUTFALL RELOCATION ADDENDUM
(A4230, State Clearinghouse No. 2001052089)

The California State Lands Commission (Commission or CSLC) is a responsible agency under the California Environmental Quality Act (CEQA) for the Petaluma Water Recycling Facility and River Access Improvements Environmental Impact Report Outfall Relocation Addendum (Project). The CEQA lead agency for the Project is the City of Petaluma.

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 State lands. The purpose of an 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, Cal. Code Regs. tit. 14, § 15097, subd. \(a\)](#), states in part:

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 for the Petaluma Water Recycling Facility and River Access Improvements, State Clearinghouse No. 2001052089, and subsequently adopted an Addendum and MMP for the Outfall Relocation Project (see Exhibit A, Attachment A-1), and remains responsible for ensuring that implementation of the measures occurs in accordance with its program. The Commission's action and authority as a responsible agency apply only to the measures listed in Table A-1 below. The full text of each measure, as set forth in the MMP prepared by the CEQA lead agency and provided in Attachment A-1, is incorporated by reference in this Exhibit A. Any measures adopted by the

Commission that differ substantially from those adopted by the lead agency are shown as follows:

- Additions to the text of the measure are underlined.

Table A-1. Project Impacts and Applicable Measures

Potential Impact	Project Description Measure (PD) and Mitigation Measure (MM) ¹	Difference Between CSLC MMP and Lead Agency MMP
Impacts to cultural resources	PD-20. Protection of Previously Undiscovered Historic and Archeological Resources	See below
BIO-1	MM BIO-1a. Special-status Species Protection Program MM BIO-1b. Rare, Threatened and Endangered Plant Protection Program	None
BIO-2	MM BIO-2a. Active Raptor and Migratory Bird Nest Protection Program	None
BIO-5	MM BIO-1a	None

PD-20 – Protection of Previously Undiscovered Historic and Archaeological Resources

If subsurface archaeological or historical remains, that qualify as a historic resource or unique archeological resource under CEQA Guidelines Section 15064.5, are discovered during construction, work in the area shall stop immediately and a qualified archaeologist shall evaluate any materials and recommend appropriate treatment. A Native American monitor shall be present for the investigation, if the local Native American tribe requests. Avoidance of impacts to the resource are preferable. In considering any suggested measures proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the City shall determine whether avoidance is feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is infeasible, other appropriate measures as recommended by the archaeologist (e.g., data recovery) shall be instituted. Work may proceed on other parts of the Project

¹ See Attachment A-1 for the full text of each measure taken from the MMP prepared by the CEQA lead agency.

while mitigation for the historic resources or unique archaeological resources is being carried out.

If human burials are encountered, all work in the area will stop immediately and the Sonoma County coroner's office shall be notified immediately. If the remains are determined to be Native American in origin, both the Native American Heritage Commission and any identified descendants must be notified and recommendations for treatment solicited (CEQA Section 15064.5); Health and Safety Code Section 7050.5; Public Resources Code Section 5097.94 and 5097.98)

The final disposition of archaeological, historical, and paleontological resources recovered on State land under the jurisdiction of the California State Lands Commission must be approved by the Commission.

ATTACHMENT A-1

**MITIGATION MONITORING PROGRAM ADOPTED BY THE
CITY OF PETALUMA**

CITY OF PETALUMA, CALIFORNIA

**WATER RECYCLING FACILITY
AND RIVER ACCESS IMPROVEMENTS
PROJECT**

**MITIGATION MONITORING PROGRAM
FOR CONSTRUCTION OF OUTFALL
RELOCATION PROJECT**

SCH # 2001052089

July 2022



MITIGATION MONITORING PROGRAM

This Mitigation Monitoring Plan applies to the relocation of the outfall at the Ellis Creek Water Treatment Facility as described in the Outfall Relocation Addendum dated June 2022.

BACKGROUND

The legal basis for the development and implementation of mitigation measures lies in the California Environmental Quality Act (CEQA). Pursuant to Section 21002 of CEQA, public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects. Subsection 21002.1(b) further requires that each public agency shall mitigate or avoid the significant effects on the environment of projects it approves or carries out whenever it is feasible to do so. Section 21081.6 requires a lead agency to adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of an agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead or responsible agency, prepare and submit a proposed reporting or monitoring program.

The reporting or monitoring program must be adopted when a public agency makes its findings under CEQA so that the program can be made a condition of project approval in order to mitigate significant effects on the environment.

Table 3-1 lists all of the Project Measures and Mitigation Measures in the Mitigation Monitoring Plan from the original 2002 Water Recycling Facility EIR. Those Project Measures and Mitigation Measures that do not apply to the outfall relocation are indicated in ~~strike through~~.

PURPOSE

This Mitigation Monitoring Program is designed to serve as a tool for the evaluation of Project compliance with mitigation measures adopted as part of the 2002 Certified EIR and revised in the Outfall Relocation Addendum. The basic objectives of the Mitigation Monitoring Program are to achieve the following:

- To report to the City Council, and the public, information regarding compliance with the EIR mitigation measures; and
- To provide assurance and documentation that the studies and actions called for in the mitigation measures are being performed as planned.

CHAPTER FORMAT

Compliance with Existing Programs

This section presents the applicable federal, state, regional, county, and local policies and regulations with which the project must comply. Compliance with these policies and regulations will result in avoidance and/or minimization of adverse environmental impacts.

Measures Included in the Project

This section presents a listing and description of measures and standards which were incorporated into the original project design. The City has adopted these measures and incorporated them as part of the project in order to avoid or minimize potential environmental impacts. These measures represent standard engineering, design, construction, and maintenance practices. Measures were developed to change the project and avoid potential impacts identified by the public and federal, state, and local agencies. Other measures were developed as a result of geotechnical, biological, cultural, and hydrological analysis in order to avoid or minimize potential impacts.

Because these measures are part of the project, they do not qualify under the normal definition of mitigation. However, these measures have been included in this chapter to provide a mechanism to ensure that these measures are implemented and monitored, and to assist the reader in understanding the commitments made by the City of Petaluma.

This section includes measures to be implemented in all phases of the project, including planning and design, construction, operation, and maintenance. Compliance with these measures will result in avoidance and/or minimization of adverse environmental impacts.

Mitigation Measures

This section contains a listing and description of mitigation measures recommended in Chapter 4, Environmental Analysis, of the 2002 Certified EIR, and that are applicable to construction of the outfall at the new location as well as the demolition of the existing outfall. The mitigation measures listed in this section are recommended to avoid or reduce environmental impacts.

The mitigation measures generally require the construction manager to follow certain constraints during construction and to repair and rehabilitate impacts resulting from construction of the project. Compliance with all of these measures would result in the reduction of adverse environmental impacts.

ADMINISTRATION

The Director of the Public Works and Utilities Department and/or his/her designee will be responsible for overall implementation and administration of the Mitigation Monitoring Program. In order to carry out the mitigation monitoring program, the Director will designate a staff person to serve as coordinator among the various agencies and departments. This person (Coordinator) will ensure that each mitigation measure is implemented to the standards specified in the EIR and is completed in a timely manner. If current staffing within the Department cannot

absorb the work demand to implement the program, a private contractor will be hired to manage and coordinate the mitigation monitoring and reporting program. The contractor will serve under the direction of the Director.

Administration of the Mitigation Monitoring Program will include the following:

- Documentation of permit approvals by other agencies;
- Compliance with conditions of project approval;
- Routine inspections and reporting activities;
- Plan checks;
- Coordination of activities of consultants hired by the City when such expertise and qualifications are necessary;
- Coordination with applicable agencies that have mitigation monitoring and reporting responsibilities (if any);
- Follow-up and response to citizens' complaints;
- Development of a work plan and schedule for monitoring activities;
- Maintenance of a mitigation monitoring checklist or other suitable mitigation compliance summary;
- Implementation of corrective actions or enforcement measures, as needed;
- Preparation of reports of the status of implementation and monitoring of mitigation measures; and
- Monitoring of financial resources associated with the program.

IMPLEMENTATION

Each responsible individual or agency listed as a “Monitoring Agency” in the Mitigation Monitoring Program will be responsible for determining whether the mitigation measures contained within the monitoring program have been implemented. A Monitoring Agency may submit a Verification Report Form (see page MMP-5) or other verification report to the Coordinator that documents compliance with each of the mitigation measures for which they are responsible. Based on the information provided by the reports, the Coordinator will maintain a mitigation monitoring checklist that documents the completion status of all required mitigation measures as shown in Table 3-1. Prior to the start of construction, the Coordinator will review the mitigation monitoring program checklist to ensure that the Project design is in compliance with all mitigation measures that are required to be implemented as a condition of the permit.

ENFORCEMENT

If a responsible individual or agency determines that compliance has not been achieved, a written notice shall be delivered to the Director or Coordinator describing the non-compliance and requiring compliance within a specified period of time. If non-compliance still exists at the expiration of the specified period of time, construction may be halted, and/or remedies shall be required, as appropriate and at the discretion of the Director.

APPROVAL AND CHANGES

This Mitigation Monitoring Program is adopted in conjunction with the project approvals for the project. Subsequent changes to the Mitigation Monitoring Program may be approved by the Director if deemed to meet the intent of said mitigation.

VERIFICATION REPORT

Date: _____ Arrival Time: _____ Departure: _____

Location: _____

Discipline:

Archaeology Dust/Air Quality

Biology Noise

Soils/Geology

Other _____

Construction Sheet No.: _____

Condition: _____

Compliance: Acceptable Unacceptable Delay Activity
 Remedial Action Implemented
 Work Stopped
 Follow-up Conference Required

Activity: _____

Observations: _____

Recommendations: _____

By: _____ Report Approval: _____

Receipt By Project Supervisor:

Signature: _____ Date: _____ Time: _____

Comments/Actions: _____

Copies to: _____

Date Entered to Environmental Monitoring File: _____

By: _____

Table 3-1

Mitigation Monitoring Checklist – Outfall Relocation Project

Mitigation Measure	Implementing Agency	Monitoring Agency	Status	Comments
Measures Included in the Project				
PD-1 Uniform Relocation Assistance	City of Petaluma	City of Petaluma		
PD-2 Purchase Locally Grown or Inspected Plants	Design Engineer	City of Petaluma		
PD-3 Liquefaction Protection	Design Engineer	City of Petaluma		
PD-4 Seismic Design to Resist Ground Shaking	Design Engineer	City of Petaluma		
PD-5 Standard Engineering Methods for Expansive Soils	Design Engineer	City of Petaluma		
PD-6 Standard Engineering Methods for Corrosive Soils	Design Engineer	City of Petaluma		
PD-7 Groundwater Monitoring and Management	City of Petaluma	City of Petaluma		
PD-8 Erosion, Stormwater Runoff, and Spill Control Measures	Construction Manager and Design Engineer	City of Petaluma & San Francisco Bay RWQCB		
PD-9 Conduct Phase II Site Assessment at Hopper Street to Assess the Potential for Contamination beneath the Sludge Lagoons	City of Petaluma	City of Petaluma		
PD-10 Monitor Soil and Groundwater During Demolition/ Construction for Evidence of Hazardous Waste at Hopper Street	Construction Manager	City of Petaluma		
PD-11 Test Suspected and Properly Dispose of Soils and Groundwater at Hopper Street	City of Petaluma	City of Petaluma		
PD-12 Inspect and Test for Lead-based Paint and Asbestos Containing Material (ACM) in any Buildings at 950 Hopper Street that will be Demolished	Construction Manager	City of Petaluma		

Table 3-1

Mitigation Monitoring Checklist – Outfall Relocation Project

Mitigation Measure	Implementing Agency	Monitoring Agency	Status	Comments
PD-13 Mosquito Prevention	City of Petaluma	City of Petaluma		
PD-14 Construction Air Quality Controls	Design Engineer	City of Petaluma		
PD-15 Permitting and Control of Toxic Air Contaminants	City of Petaluma	City of Petaluma		
PD-16 Odor Control	Design Engineer and Plant Operator	City of Petaluma		
PD-17 Construction Noise Mitigation Measures	Construction Manager/City of Petaluma	City of Petaluma		
PD-18 Operational Noise Mitigation Measures	Design Engineer	City of Petaluma		
PD-19 Protection of Historic and Archaeological Resources.	City of Petaluma	City of Petaluma		
PD-20 Protection of Previously Undiscovered Historic and Archeological Resources.	Design Engineer and City of Petaluma	City of Petaluma		
PD-21 Landscaping Design	Design Engineer	City of Petaluma		
PD-22 Lighting Design	Design Engineer and City of Petaluma	City of Petaluma		
PD-23 Fire Protection	Design Engineer and City of Petaluma	City of Petaluma		
Mitigation Measures				
GW-1 Drinking Water Well Protection Program	City of Petaluma	City of Petaluma		
WQ-1a Chromium Monitoring and Source Reduction Program	City of Petaluma	City of Petaluma		
WQ-1b Nickel Monitoring and Source Reduction Program	City of Petaluma	City of Petaluma		
WQ-1c Bis(2-ethylhexyl)phthalate Effluent Monitoring and Source Reduction Program	City of Petaluma	City of Petaluma		

Table 3-1

Mitigation Monitoring Checklist – Outfall Relocation Project

Mitigation Measure	Implementing Agency	Monitoring Agency	Status	Comments
WQ-1d Constituents not Monitored in Effluent Monitoring and Source Reduction	City of Petaluma	City of Petaluma		
WQ-1e Dioxin/Furan Congener Monitoring and Source Reduction Program	City of Petaluma	City of Petaluma		
BIO-1a Aquatic Species Protection Program	City of Petaluma	City of Petaluma		
BIO-1b Rare, Threatened and Endangered Plant Protection Program	City of Petaluma	City of Petaluma		
BIO-1c Wildlife Protection Program	City of Petaluma	City of Petaluma		
BIO-2a Active Raptor and Migratory Bird Nest Protection Program	City of Petaluma	City of Petaluma		
BIO-2b Rookery Protection Program	City of Petaluma	City of Petaluma		
BIO-4 Prepare a Riparian Census and Conceptual Riparian Mitigation Plan	City of Petaluma	City of Petaluma		
BIO-7 Create or Restore Wetlands and Waters of the U.S.	City of Petaluma	City of Petaluma		
TR-1a Reroute Construction Worker Trips	Construction Manager	City of Petaluma		
TR-1b Install Signage to Reroute Employee and Visitor Trips	City of Petaluma	City of Petaluma		

COMPLIANCE WITH EXISTING PROGRAMS

This section presents the applicable federal, state, regional, county, and local policies and regulations that the project are required to comply with. Compliance with these policies and regulations, and future modifications thereof, is required, and will result in avoidance and/or minimization of adverse environmental impacts.

Federal

Archaeological and Historic Data Preservation Act of 1974

California Toxics Rule

Clean Air Act of 1970, amended 1977 and 1990

Clean Water Act of 1977, amending the Water Pollution Control Act

Endangered Species Act of 1973, as amended (FESA)

Migratory Bird Treaty Act of 1918

Resources Conservation and Recovery Act

Rivers and Harbors Act of 1899, Section 10

Water Pollution Control Act, as amended by the Clean Water Act of 1977; Section 404

State

Accidental Release Prevention and Hazardous Waste Control Laws

Alquist-Priolo Earthquake Fault Zone Act

California Clean Air Act

California Department of Fish and Wildlife Fish and Game Code Section 1602

California Endangered Species Act (CESA) (Fish and Game Code Sec. 2050-2098)

California Government Code, Sec. 65962.5, Hazardous Waste and Substances Sites List (Cortese List)

California Health and Safety Code, Section 25500 et seq. - Hazardous Materials Release Response Plans and Inventory

California Native Plant Protection Act (Fish and Game Code Section 1900-1913)

California Occupational Safety and Health Administration (Cal-OSHA)

Porter-Cologne Water Quality Control Act

Title 8, California Code of Regulations (CCR), Sec. 25500 *et seq.*, Hazardous Material Storage

Title 8, California Code of Regulations (CCR), Sec. 1500-1938, California Construction Safety Regulations

Title 8, California Code of Regulations (CCR), Sec. 1509 & 3203, Injury and Illness Prevention Program

Title 8, California Code of Regulations (CCR), Sec. 1597-1599, Vehicles, Traffic Control, Flaggers, Barricades, and Warning Signs

Title 8, California Code of Regulations (CCR), Sec. 5194, Hazard Communication

Title 22, California Code of Regulations (CCR), Sec. 60301 *et seq.*, Recycled/Reclaimed Water

Title 22, California Code of Regulations, Section 66260.1 *et seq.* - California Hazardous Waste Regulations

Water Quality Control Plan for the San Francisco Bay Basin (2017)

Regional

Bay Area Clean Air Plan

Bay Area Air Quality Management District Risk Management Policy

Bay Area Air Quality Management District Rules and Regulations

Petaluma

Petaluma General Plan

Petaluma Building and Grading Regulations

Petaluma Zoning Ordinance

MEASURES INCLUDED IN THE PROJECT

This section presents the measures the City decided to incorporate into the Water Recycling Facility & River Access Improvements Project. Those measures that are applicable to the construction and operation of the larger Water Recycling Facility project, but that are not related to construction of the outfall at the new location are listed below. The full text of those measures applicable to the outfall component of the Project is provided on the following pages.

Project Measures not Applicable to Outfall Relocation

- PD-1 Uniform Relocation Assistance
- PD-5 Standard Engineering Methods for Expansive Soils
- PD-7 Groundwater Monitoring and Management
- PD-9 Conduct Phase II Site Assessment at Hopper Street to Assess the Potential for Contamination beneath the Sludge Lagoons
- PD-10 Monitor Soil and Groundwater during Demolition/construction for Evidence of Hazardous Waste at Hopper Street
- PD-11 Test Suspected and Properly Dispose of Contaminated Soils and Groundwater at Hopper Street
- PD-12 Inspect and Test for Lead-based Paint and Asbestos Containing Material (ACM) Any Buildings at 950 Hopper Street that will be Demolished
- PD-13 Mosquito Prevention
- PD-15 Permitting and Control of Toxic Air Contaminants
- PD-16 Odor Control
- PD-17 Construction Noise Mitigation Measures
- PD-18 Operational Noise Mitigation Measures
- PD-19 Protection of Historic and Archaeological Resources
- PD-21 Landscaping Design
- PD-22 Lighting Design
- PD-23 Fire Protection

PD-2 Purchase Locally Grown or Inspected Plants

Description: The City of Petaluma shall designate that the purchase of all plants for the wetlands and restoration efforts shall be from locally grown stock or from a nursery that has an approved monitoring program for the glassy-winged sharpshooter.

Lead Agency: City of Petaluma

Implementing Agency: Design Engineer

Timing: **Start:** Upon certification of the EIR

Complete: Prior to the start of landscaping or restoration

Monitoring Agency: City of Petaluma

Validation: Specifications for restoration and landscaping contracts

PD-3 Liquefaction Protection

Description: The City shall densify or solidify soil as necessary where site specific conditions are identified that are liquefaction prone. Overexcavation and replacement of liquefiable soil will be viable for some of the construction. Vibro-replacement or compaction grouting would also be effective, especially in areas of deeper excavation or trenching. Special foundation designs (e.g., pile or structural slab) may be appropriate for structures such as the new structures near existing Pond No. 10. Piles are not required for new facilities in existing Ponds No. 1 and 4.

Lead Agency: City of Petaluma

Implementing Agency: Design Engineer

Timing: **Start:** Upon certification of the EIR

Complete: At completion of construction

Monitoring Agency: City of Petaluma

Validation: Design-phase geotechnical report

PD-4 Seismic Design to Resist Ground Shaking

Description: The City shall take into account the high probability of strong seismic ground shaking, by incorporating design features that accommodate lateral movements and flexibility. Construction of all facilities and earth embankments should meet UBC standards for Seismic Zone 4, Seismic Source Type A, and Seismic Coefficients of 0.44 Na (Ca) and 0.64 Na (Cv). UBC soil profile type for the site is Sd and near source factors for the Rodger’s Creek fault are 1.19 (Na) and 1.58 (Nv). New facilities should be designed in accordance with the Sonoma County building codes which incorporate the seismic design for Zone 4 provisions of the 1997 Uniform Building Code.

Lead Agency: City of Petaluma

Implementing Agency: Design Engineer

Timing: **Start:** Upon certification of the EIR
Complete: Upon completion of construction

Monitoring Agency: City of Petaluma

Validation: Design-phase geotechnical report

PD-6 Standard Engineering Methods for Corrosive Soils

Description: The City shall sample soils for corrosivity and remove affected soils. Facilities shall be constructed of materials not susceptible to corrosion or designed to provide corrosion protection.

Lead Agency: City of Petaluma

Implementing Agency: Design Engineer

Timing: **Start:** Upon certification of the EIR

Complete: Upon completion of construction

Monitoring Agency: City of Petaluma

Validation: Design-phase geotechnical report

PD-8

Erosion, Stormwater Runoff, and Spill Control Measures

Description:

The City shall develop and implement measures designed to prevent significant construction impacts to water quality. Examples of possible measures include the following:

Construction Site Best Management Practices (BMPs)	
ID	BMP Name
Temporary Soil Stabilization	
SS-1	Scheduling
SS-2	Preservation of Existing Vegetation
SS-3	Hydraulic Mulch
SS-4	Hydroseeding
SS-5	Soil Binders
SS-6	Straw Mulch
SS-7	Geotextiles, Plastic Covers, & Erosion Control Blankets/Mats
SS-8	Wood Mulching
SS-9	Earth Dikes/Drainage Swales & Ditches
SS-10	Outlet Protection/Velocity Dissipation Devices
SS-11	Slope Drains
Temporary Soil Stabilization	
SC-1	Silt Fence
SC-2	Desilting Basin
SC-3	Sediment Trap
SC-4	Check Dam
SC-5	Fiber Rolls
SC-6	Gravel Bag Berm
SC-7	Street Sweeping and Vacuuming
SC-8	Sandbag Barrier
SC-9	Straw Bale Barrier
SC-10	Storm Drain Inlet Protection
Wind Erosion Control	
WE-1	Wind Erosion Control
Tracking Control	
TC-1	Stabilized Construction Entrance/Exit
TC-2	Stabilized Construction Roadway
TC-3	Entrance/Outlet Tire Wash
Non-Storm Water Management	
NS-1	Water Conservation Practices
NS-2	Dewatering Operations

Construction Site Best Management Practices (BMPs)	
ID	BMP Name
NS-3	Paving and Grinding Operations
NS-4	Temporary Stream Crossing
NS-5	Clear Water Diversion
NS-6	Illicit Connection/Illegal Discharge Detection and Reporting
NS-7	Potable Water/Irrigation
NS-8	Vehicle and Equipment Cleaning
NS-9	Vehicle and Equipment Fueling
NS-10	Vehicle and Equipment Maintenance
Waste Management and Materials Pollution Control	
WM-1	Material Delivery and Storage
WM-2	Material Use
WM-3	Stockpile Management
WM-4	Spill Prevention and Control
WM-5	Solid Waste Management
WM-6	Hazardous Waste Management
WM-7	Contaminated Soil Management
WM-8	Concrete Waste Management
WM-9	Sanitary/Septic Waste Management
WM-10	Liquid Waste Management

Source: Caltrans 2000.

In addition, stormwater runoff from the existing oxidation pond site during operation shall be diverted into the wastewater treatment system. Stormwater runoff from the visitors parking lot on Parcel A shall be treated either by diversion into the wastewater treatment system or installation of an oil and grease separator at the bottom of the lot.

Construction within the Petaluma River or the lower 300 feet of Ellis Creek shall be performed from a barge and with divers when appropriate. Excavation underwater shall be done with pressurized water.

Lead Agency: City of Petaluma

Implementing Agency: Construction Manager

Timing: **Start:** Prior to start of construction

Complete: Upon completion of construction

Monitoring Agency: City of Petaluma and San Francisco Bay Regional Water Quality Control Board

Validation: Storm Water Pollution Prevention Plan

PD-20 Protection of Previously Undiscovered Historic and Archaeological Resources

Description: If subsurface archaeological or historical remains, that qualify as a historic resource or unique archeological resource under CEQA Guidelines Section 15064.5, are discovered during construction, work in the area shall stop immediately and a qualified archaeologist shall evaluate any materials and recommend appropriate treatment. A Native American monitor shall be present for the investigation, if the local Native American tribe requests. Avoidance of impacts to the resource are preferable. In considering any suggested measures proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the City shall determine whether avoidance is feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is infeasible, other appropriate measures as recommended by the archaeologist (e.g., data recovery) shall be instituted. Work may proceed on other parts of the Project while mitigation for the historic resources or unique archaeological resources is being carried out.

If human burials are encountered, all work in the area will stop immediately and the Sonoma County coroner’s office shall be notified immediately. If the remains are determined to be Native American in origin, both the Native American Heritage Commission and any identified descendants must be notified and recommendations for treatment solicited (CEQA Section 15064.5); Health and Safety Code Section 7050.5; Public Resources Code Section 5097.94 and 5097.98).

Lead Agency: City of Petaluma

Implementing Agency: Design Engineer and City of Petaluma

Timing: **Start:** Upon certification of the EIR

Completion: Completion of construction

Monitoring Agency: City of Petaluma

Validation: A qualified professional archaeologist and Native American tribe affiliated with the area shall be consulted if subsurface archaeological or historical remains are discovered.

MITIGATION MEASURES

This section contains mitigation measures to be implemented prior to, during, and immediately following project construction. These measures generally require the construction manager to follow certain constraints during construction and to repair and rehabilitate impacts resulting from construction of the project. Compliance with these mitigation measures would result in minimizing, rectifying, or reducing adverse environmental impacts. Those measures that are applicable to construction and operation of the larger Water Recycling Facility project, but that are not related to construction of the outfall at the new location are listed below. The full text of those measures applicable to the outfall component of the Project is provided on the following pages.

Mitigation Measures not Applicable to Outfall Relocation

- GW-1 Drinking Water Well Protection Program
- WQ-1a Chromium Monitoring and Source Reduction Program
- WQ-1b Nickel Monitoring and Source Reduction Program Program
- WQ-1c Bis(2-ethylhexyl)phthalate Effluent Monitoring and Source Reduction Program
- WQ-1d Constituents not Monitored in Effluent Monitoring and Source Reduction
- WQ-1e Dioxin/Furan Congener Monitoring and Source Reduction Program
- BIO-1c Wildlife Protection Program
- BIO-2b Rookery Protection Program
- BIO-4 Prepare a Riparian Census and Conceptual Riparian Mitigation Plan
- BIO-7 Create or Restore Wetlands and Waters of the U.S.
- TR-1a Reroute Construction Worker Trips
- TR-1b Install Signage to Reroute Employee and Visitor Trips

BIO-1a Special-status Species Protection Program

Description: The City shall implement an Special-status Species Protection Plan, as follows:

- A Worker Environmental Awareness Training Program for construction personnel shall be provided that addresses sensitive habitats and special-status species that may be found on-site and outline procedures in the event a special-status species is encountered.
- Any ground-disturbing construction activity in Ellis Creek (i.e., in the bank or bed of the channel) or slough channel shall be 1) conducted when no or low freshwater flow from upstream into the work area (which will potentially be tidal at the time of construction) is occurring to avoid downstream transport of sediment and impacts on any migrating salmonid fish, or other rare aquatic species; and 2) conducted between coffer dams around which any tidal or stream flow shall be routed. Prior to coffer dam installation, a qualified biologist shall seine the area between the dams to determine if sensitive species are present. If sensitive species are present, they should be relocated in consultation with NMFS, USFWS, and CDFW consistent with federal and State regulations.
- Facilities shall be located and constructed using methods that minimize the loss of existing riparian or marsh vegetation. Unavoidable loss of riparian vegetation shall be mitigated by planting sufficient native riparian vegetation to compensate for the loss of shade and habitat.
- A 20-foot buffer zone from the top of the bank of Ellis Creek shall be established, where feasible, and fenced during construction.
- If aquatic habitat must be removed, create or restore like habitat on site at a compensatory ratio of 1:1 (1 acre of restored habitat for every 1 acre impacted) or as required by the Corps of Engineers or Regional Water Quality Control Board. Identify opportunities to improve current habitat conditions within Ellis Creek and implement, where feasible. Cropped upland is available as mitigation sites for salt marsh, freshwater marsh, or stream impacts. Shollenberger Park also has sites available for mitigation for river habitat impacts.
- Best management practices shall be implemented to control erosion, sedimentation, and runoff of pollutants. As an appropriate example, best management practices are described in the *Caltrans Storm Water Quality Handbooks: Construction*

Site Best Management Practices Manual (May 2017). Refer to PD-8 for a potential list. These shall be implemented as necessary under the supervision of the construction manager. Detailed specifications shall be incorporated onto bid documents and construction drawings.

- Construction and grading activities that would affect Ellis Creek, or upland areas that might erode into the creek or marsh, shall be restricted to the dry season.
- For work within or adjacent to the tidal marsh, temporary salt marsh harvest mouse exclusion fence shall be installed around the construction footprint and buried to a depth of 4 inches. The fence shall be constructed of heavy plastic sheeting curved outward at the top from the construction area to prevent mice from climbing or passing through. Fence height shall be at least 12 inches higher than adjacent vegetation. A qualified biologist shall inspect the fence as needed, to ensure there are no gaps or damage. Stakes shall be located on the inside of the exclusion fence (to deter mice from climbing stakes).

Lead Agency:	City of Petaluma
Implementing Agency:	City of Petaluma Public Works & Utilities Department
Timing:	Start: Before start of construction of the affected area Complete: Upon completion of construction
Monitoring Agency:	City of Petaluma and Construction Manager
Validation:	Annual report

BIO-1b Rare, Threatened and Endangered Plant Protection Program

Description:	<p>The City shall retain a qualified biologist to conduct floristically-based surveys for special-status plants in accordance with the CDFG’s “Guidelines for Assessing the Effects of Proposed Developments on Rare and Endangered Plants and Plant Communities” prior to initiation of construction activities. The purpose of these surveys will be to locate and identify any special-status plants that may occur in the proposed construction zone.</p> <p>If special-status plants are located during the surveys, exclusionary buffer zones (recommend a minimum 20-foot buffer, where feasible) shall be established around each population site. Mesh fencing shall be installed at the boundary of the exclusionary buffer zone prior to initiation of construction activities.</p> <p>If complete avoidance cannot be achieved, the City shall submit a site-specific mitigation and compensation program for the affected plants in consultation with the CDFG. The mitigation program shall include the results of the surveys, delineation of suitable habitats for restoration or planting of rare species, procedures for obtaining seed before construction, and performance standards for success of the mitigation program. Sufficient areas exist along Ellis Creek and elsewhere on the site to create or restore plant communities if needed.</p>
Lead Agency:	City of Petaluma
Implementing Agency:	City of Petaluma Public Works & Utilities Department
Timing:	Start: After certification of the EIR start of construction Complete: Upon completion of construction
Monitoring Agency:	City of Petaluma
Validation:	Annual report

BIO-2a Active Raptor and Migratory Bird Nest Protection Program

Description: The City shall retain a qualified biologist to conduct pre-construction surveys to determine if any active raptor or migratory bird nests occur within 500 feet of the project area at least two weeks prior to initiation of construction activities.

If active nests are located in the study area, construction exclusion zones shall be established around each active nest. Appropriate construction exclusion zones shall be established through consultation with CDFG. Construction activities shall be prohibited within exclusion zone until the end of the nesting season.

During construction, a qualified biologist shall monitor each nest to evaluate potential nesting disturbances caused by the construction activities. The monitor shall have the authority to stop construction if it appears to be having a negative impact on the nesting raptors. The monitor shall also monitor the nest to determine when the young have fledged and submit weekly reports to the CDFG and the City of Petaluma throughout the nesting season.

Lead Agency: City of Petaluma

Implementing Agency: City of Petaluma Public Works & Utilities Department

Timing: **Start:** Before start of construction

Complete: Upon completion of construction

Monitoring Agency: City of Petaluma and Construction Manager

Validation: Annual report

EXHIBIT B
CALIFORNIA STATE LANDS COMMISSION
STATEMENT OF FINDINGS
WATER RECYCLING FACILITY & RIVER ACCESS IMPROVEMENT EIR OUTFALL
RELOCATION ADDENDUM

(A4230, State Clearinghouse No. 2001052089)

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 to comply with CEQA as part of its discretionary approval to authorize issuance of a General Lease – Public Agency Use, to the City of Petaluma (City), for use of sovereign land associated with the proposed Petaluma Water Recycling Facility and River Access Improvement Environmental Impact Report Outfall Relocation Addendum (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines¹, § 15381.) 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 a lease for the Project to go forward and because the City, as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. The City analyzed the environmental impacts associated with the Project in a Final Environmental Impact Report (EIR) (State Clearinghouse [SCH] No. 2001052089) and, on August 5, 2002, certified the EIR and adopted a Mitigation Monitoring Program (MMP) and Findings, and a Statement of Overriding Considerations. Subsequently, the City prepared an EIR Addendum and MMP and adopted both on August 8, 2022. The EIR Addendum addressed Project changes to relocate the existing outfall and determined that the changes do not require a Subsequent EIR because the environmental impacts of the outfall relocation remained similar to those originally analyzed in the EIR.

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 Project involves relocating the existing Ellis Creek Water Recycling Facility (ECWRF) Petaluma River Outfall structure to the tidal slough within and adjacent to the southern corner of the ECWRF. The City will divert all future treated wastewater effluent discharges to the tidal slough. No change will occur to the volume or seasonal restrictions of the wastewater discharges. The existing Petaluma River outfall, as well as an emergency pipeline and outfall, will be removed.

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

- Agriculture
- Groundwater
- Surface Water Quality
- Biological Resources
- Traffic and Circulation

Of the 5 resources areas noted above, Project components within the Commission's jurisdiction could have significant environmental effects on the following resource area:

- Biological Resources

In certifying the Final EIR and approving the Water Recycling Facility & River Access Improvement Project, the City 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 such that the impacts would be less than significant for most resource areas. However, even with the integration of all feasible mitigation, the City concluded in the EIR that some of the identified impacts would remain significant. As a result, the City adopted a Statement of Overriding Considerations to support its approval of the Water Recycling Facility & River Access Improvement Project despite the significant and unavoidable impacts. The City determined that, after mitigation, significant impacts on Agriculture could still remain. Because the agricultural impacts do not involve lands subject to Commission oversight, the corresponding significant impacts fall outside the Commission's jurisdiction and approval authority, making it unnecessary for the Commission to adopt a Statement of Overriding Considerations.

As a responsible agency, the Commission complies with CEQA by considering the EIR and EIR Addendum 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 will be called on to

carry out or approve. In order to ensure the identified mitigation measures and Project Description Measures are implemented, the Commission adopts the Mitigation Monitoring Program (MMP) as set forth in Exhibit A 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 EIR Addendum 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 Science, 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 EIR and EIR Addendum, certified and adopted, respectively, by the City 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 EIR and EIR Addendum, 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 EIR and EIR Addendum fully comply with CEQA.

The Commission has reviewed and considered the information contained in the Project EIR and EIR Addendum. All significant adverse impacts of the Project identified in the EIR relating to the Commission's approval of a General Lease – Public Agency Use, which would allow the removal of the existing outfall, 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 final 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 final 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.

The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in the Final EIR and EIR Addendum.

A. SUMMARY OF FINDINGS

The EIR did not identify any environmental issue areas for which the Project will have no impact.

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

The EIR subsequently identified the impacts to the following resource areas as Less Than Significant:

- Land Use
- Geology, Soils, and Seismicity
- Hydrology
- Public Health and Safety
- Air Quality
- Noise
- Cultural Resources
- Visual Resources
- Public Services and Utilities

For the remaining potentially significant effects, the Findings are organized by significant impacts within the EIR issue areas as presented below.

B. POTENTIALLY SIGNIFICANT IMPACTS

The impacts within CSLC jurisdiction identified in Table B-1 were determined in the Final EIR and EIR Addendum to be potentially significant absent mitigation. After application of mitigation, however, all impacts were determined to be less than significant (LTSM). For the full text of each mitigation measure (MM), please refer to Exhibit A, Attachment A-1.

Table B-1 – Significant Impacts by Issue Area

Environmental Issue Area	Impact Nos. (LTSM)
Biological Resources	BIO-1, BIO-2, BIO-5

C. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION

The impacts identified below were determined in the Final EIR and EIR Addendum to be potentially significant absent mitigation; however, the impacts were determined to be less than significant with mitigation (LTSM).

1. BIOLOGICAL RESOURCES

CEQA FINDING NO. 1

Impact: **Impact BIO-1. Will the project cause loss of individuals or occupied habitat of endangered, threatened, or rare fish, wildlife or plant species?**

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 EIR and EIR Addendum.

FACTS SUPPORTING THE FINDING(S)

Project activities proposed for the removal of the existing outfall, such as ground disturbing or dewatering activities, have the potential to result in the direct loss of endangered, threatened, or rare fish, wildlife, or plant species. These activities also have the potential to occupy special status species habitat. The EIR and EIR Addendum identify measures to require preconstruction surveys, worker training, in-water work windows, and fenced buffer zones to minimize impacts to species that are present. In addition, measures to compensate for any loss of habitat were identified.

Implementation of MM BIO-1a and MM BIO-1b has been incorporated into the Project to reduce this impact to a less than significant level.

MM BIO-1a: Special-status Species Protection Program.

MM BIO-1b: Rare, Threatened and Endangered Plant Protection Program.

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

CEQA FINDING NO. 2

Impact: **Impact BIO-2. Will the project cause loss of active raptor nest, migratory bird nests, or wildlife nursery sites?**

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 EIR.

FACTS SUPPORTING THE FINDING(S)

Construction activities have the potential to result in the direct loss of raptor or migratory bird nests or wildlife nursery sites because they could lead to nest

abandonment and nest failure from noise and visual disturbance. The EIR identifies measures to avoid the impacts by requiring preconstruction surveys for nest identification and subsequent exclusion zones during nesting and non-nesting seasons.

Implementation of MM BIO-2a has been incorporated into the Project to reduce this impact to a less than significant level.

MM BIO-2a: Active Raptor and Migratory Bird Nest Protection Program.

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

CEQA FINDING NO. 3

Impact: **Impact BIO-5. Will the project substantially block or disrupt major fish or wildlife migration or travel corridors?**

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 EIR Addendum.

FACTS SUPPORTING THE FINDING(S)

Barge use and associated in-water work activities for outfall removal have the potential to block or disrupt major fish migration for both Central California Coast Distinct Population Segment (DPS) steelhead and green sturgeon. The EIR and EIR Addendum identify measures to reduce the impact with worker awareness training, in-water work windows to minimize species occurrence, and compensation for any loss of habitat.

Implementation of MM BIO-1a has been incorporated into the Project to reduce this impact to a less than significant level.

MM BIO-1a: Special-status Species Protection Program.

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

D. 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 5 alternatives analyzed in the EIR represent a reasonable range of potentially feasible alternatives that could reduce one or more significant impacts of the Project. These alternatives include:

- 1) No Project
- 2) Advanced Facultative Ponds
- 3) Aerated Lagoons
- 4) Primary Clarifiers/Ponds
- 5) Hopper Street

As presented in the EIR, the alternatives were described and compared with each other and with the proposed Project.

Under State CEQA Guidelines section 15126.6, subdivision (e)(2), if the No Project Alternative is identified as the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. Based on the analysis contained in the EIR, there is no clear environmentally superior alternative to the proposed Project that is capable of achieving the Project objective. No one alternative would eliminate the significant and adverse impacts of the proposed Project.

The City independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the City's independent judgment as to alternatives. The City found that the Project provides the best balance between the Project goals and objectives and the Project's benefits, for reasons provided in the City's Findings (Attachment B-1)].

Based upon the objectives identified in the Final EIR and the detailed mitigation measures imposed upon the Project, the Commission has determined that the

Project should be approved, subject to such mitigation measures (Exhibit A, Mitigation Monitoring Program).

ATTACHMENT B-1
CITY OF PETALUMA
FINDINGS FOR THE CITY OF PETALUMA WATER RECYCLING FACILITY
AND RIVER ACCESS IMPROVEMENTS PROJECT

Exhibit B-1

EXHIBIT A

FINDINGS FOR THE CITY OF PETALUMA WATER RECYCLING FACILITY AND RIVER ACCESS IMPROVEMENTS PROJECT

The EIR identified two significant, unavoidable impacts: Agriculture Impact AG-1, loss of farmland and AG-C1, cumulative loss of farmland. The EIR also identified 11 significant impacts that, with mitigation, can be reduced to less-than-significant levels: Groundwater Impact GW-1, degradation of groundwater quality at existing drinking water wells; Surface Water Quality Impacts WQ-1 and WQ-2, exceedence of numeric- and narrative-based criteria; Biological Resources Impact BIO-1, loss of individuals or occupied habitat of endangered species; BIO-2, loss of bird nests or wildlife nursery sites; BIO-4, loss of sensitive native plant communities; BIO-5, disruption of fish or wildlife migration corridors; BIO-6, loss of aquatic habitat; BIO-7, loss of wetlands or waters of the U.S.; BIO-8, exposure of organisms to bioaccumulatory substances; and Transportation Impact TR-1, congestion along study area roadways.

With respect to the two agricultural impacts, loss of farmland and the cumulative loss of farmland, one mitigation measure was recommended by the EIR, but has not been adopted: Measure AG-1, Maintain Maximum Acreage of Agricultural Production. Measure AG-1 would require the City to maintain the maximum acreage feasible in agricultural production on Parcels A and B, approximately 70 acres. Even with this reduction in impact, approximately 79 acres of farmland would be removed, and the impact would remain significant after mitigation. The City has determined not to adopt Measure AG-1 because it (a) interferes with the project objectives, namely the educational and recreational use of Parcel A for trails and butterfly habitat; (b) agricultural production on 70 acres is a very small contribution to agriculture in the region; (c) current agricultural use of the property is not for high-value or unique crops; and (d) agricultural production so near the Water Recycling Facility could create conflicts between the two uses. Because the Water Recycling Facility is surrounded by the Petaluma River on one side and agriculture on three sides, there is no other parcel which could feasibly attain the project objectives, without similar loss of agriculturally productive land. No other feasible mitigation has been identified, and these impacts remain significant after mitigation. It was suggested that the City purchase agricultural land and place it into production. This mitigation measure was considered but rejected as infeasible, as any land which is not currently in production is likely in that condition for a good reason. Public ownership and management of agricultural land does not increase the amount of agriculturally productive land in the County, as the currently healthy state of the agricultural economy in Sonoma County places the maximum amount of land in production without government subsidies.

With respect to Groundwater Impact GW-1, degradation of groundwater quality at an existing drinking water well, one mitigation measure has been adopted: Measure GW-1, Drinking Water Well Protection Program. Because there is a drinking water well within one-quarter mile of the project, Measure GW-1 requires the City to monitor water quality

in this well before and after construction. If changes are detected after construction that are deemed deleterious to public health, the City will need to drill a new well, retrofit the existing well, or provide a wellhead treatment system for the constituents that are causing the public health concern. Any one of these three alternate approaches is feasible and would reduce the impact to a level below significance.

With respect to the two Surface Water Quality Impacts WQ-1 and WQ-2, exceedance of numeric- and narrative-based criteria, five mitigation measures have been adopted: Measure WQ-1a, Chromium Monitoring and Source Reduction; Measure WQ-1b, Nickel Monitoring and Source Reduction Program; Measure WQ-1c, Bis(2-ethylhexyl)phthalate Effluent Monitoring and Source Reduction Program; Measure WQ-1d, Constituents not Monitored in Effluent Monitoring and Source Reduction Program; and Measure WQ-1e, Dioxin/Furan Congener Monitoring and Source Reduction Program. Measures WQ-1a through WQ-1e require monitoring of the specific constituents listed in their titles and, if necessary, control of the source of each constituent. The Source Reduction Program would establish or revise pretreatment limits or provide for enforcement of these limits. Measure WQ-1e would also reduce Impact WQ-2, bioaccumulation of dioxin/furan congeners, in the same manner. These mitigation measures are feasible and would reduce water quality impacts below significance.

With respect to the six biological resources impacts, eight mitigation measures have been adopted: Measure BIO-1a, Aquatic Species Protection Program; Measure BIO-1b, Threatened and Endangered Plant Protection Program; Measure BIO-1c, Wildlife Protection Program; Measure BIO-2a, Active Raptor and Migratory Bird Nest Protection Program; Measure BIO-2b, Rookery Protection Program; BIO-4, Prepare a Riparian Census and Conceptual Riparian Mitigation Plan; Measure BIO-7, Create or Restore Wetlands and Water of the U.S.; and WQ-1e, Dioxin/Furan Congener Monitoring and Source Reduction Program.

Regarding Impact BIO-1, loss of individuals or occupied habitat of endangered species, Measures BIO-1a, 1b, and 1c will avoid impacts to rare and endangered plant and wildlife species or compensate for any impacts by replacing or restoring them in kind and on site. Land is available within the project area for compensatory creation of habitats or transplantation of individuals. Mitigation Measure BIO-1a requires a Worker Environmental Awareness Training Program, limits ground-disturbing activity in Ellis Creek, relocates sensitive species if encountered, requires revegetation, establishes buffer zones, creates or restores damaged aquatic habitat, identifies opportunities to improve habitat conditions within Ellis Creek, and controls erosion. Measure BIO-1b requires surveys for special-status plants, establishes exclusionary buffer zones around each population site, and provides for a compensatory replacement program for affected plants. Measure BIO-1c, Wildlife Protection Program, requires dogs to be leashed and the public to remain on established trails. These requirements are feasible and will result in reduction of impacts to less-than-significant levels.

Regarding Impact BIO-2, loss of nests or wildlife nursery sites, Measure BIO-2a, Active Raptor and Migratory Bird Nest Protection Program, and BIO-2b, Rookery Protection Program, will identify nests and establish exclusion zones to avoid disturbance during

both the nesting and non-nesting season. These mitigation measures are feasible and will reduce project related impacts to a less-than-significant level.

In response to Impact BIO-4, permanent loss of sensitive native plant communities, Measure BIO-4 requires preparation of a riparian census and revegetation or compensatory replacement, thus reducing impacts to a less-than-significant level. Land is available within the project area for compensatory creation of riparian habitats.

Regarding Impact BIO-5, disruption of fish or wildlife migration corridors, mitigation measures BIO-1a and BIO-4, described above, will ensure that steelhead could migrate up Ellis Creek during migration periods despite bridge construction over or pipeline construction under Ellis Creek. Measure PD-8, Construction Erosion and Spill Control Measures, requires Best Management Practices for erosion control. These measures are feasible and will reduce impacts to fish and wildlife migration to a level below significance.

Regarding Impact BIO-6, loss of aquatic habitat, Measure BIO-1a, described above, requires avoidance of impacts to aquatic habitat where feasible and compensation for any loss, resulting in less-than-significant impacts.

Regarding Impact BIO-7, loss of wetlands or waters of the U.S., Measure BIO-7, requires revegetation of temporary impacts to wetlands and compensatory creation of wetlands for permanent impacts, thus reducing impacts to wetlands to a less-than-significant level. Land is available within the project area for compensatory creation of riparian or wetlands habitats.

Regarding Impact BIO-8, exposure of organisms to bioaccumulatory substances, Measure WQ-1e, described above, is feasible and will reduce impacts below the level of significance.

With respect to Transportation Impact TR-1, congestion on study area roadways, two mitigation measures have been adopted: Measure TR-1a, Reroute Construction Worker Trips and Measure TR-1b, Install Signage to Reroute Employee and Visitor Trips. Measure TR-1a requires construction workers to enter and exit Lakeville Highway at McDowell Boulevard before 9:00 AM and after 4:00 PM, reducing impacts to a level below significance during construction. Measure TR-1b requires installation of an informational sign on Lakeville Highway at McDowell Blvd. indicating that the new wetlands park can be accessed by turning right on McDowell Blvd. and installation of a sign on Cypress Drive prohibiting a right turn from the Wetlands Park into Pine View Way between 4:00 and 6:00 PM on weekdays, thus reducing impacts at Pine View and Lakeville Highway to less-than-significant levels. Both measures are feasible.

EXHIBIT B

STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE CITY OF PETALUMA WATER RECYCLING FACILITY AND RIVER ACCESS IMPROVEMENTS PROJECT

The City of Petaluma has certified the Water Recycling Facility and River Access Improvements EIR (State Clearinghouse #2001052089), and it has been determined that, as stated in the EIR, the Project may result in significant and unavoidable impacts with respect to Impact AG-1, loss of farmland and Impact AG-C1, cumulative loss of farmland. Mitigation Measure AG-1, Maintain Maximum Acreage of Agricultural Production, has been considered by the City, as it reduces the loss of farmland by approximately 70 acres. Even with this mitigation however, approximately 79 acres of farmland on Parcel A will be converted for use by the Water Recycling Facility and River Access Improvements. Because this Mitigation Measure (a) interferes with the project objectives, namely the educational and recreational use of Parcel A for trails and butterfly habitat; (b) agricultural production on 70 acres is a very small contribution to agriculture in the region; (c) currently agricultural use of the property is not for high-value or unique crops; and (d) agricultural production so near the Water Recycling Facility could create conflicts between the two uses, the City determines not to adopt Measure AG-1.

Because the Water Recycling Facility is surrounded by the Petaluma River on one side and agriculture on three sides, and the facilities proposed for Parcel A must be adjacent to the rest of the Water Recycling Facility, there is no other parcel which could feasibly attain the project objectives, without similar loss of agriculturally productive land. No further feasible mitigation has been identified and impacts to farmland remain significant. It was suggested that the City purchase agricultural land and place it into production. This mitigation measure was considered but rejected as infeasible, as any land which is not currently in production is likely in that condition for a good reason. Public ownership and management of agricultural land does not increase the amount of agriculturally productive land in the County, as the currently healthy state of the agricultural economy in Sonoma County places the maximum amount of land in production without government subsidies.

Of the five alternatives evaluated in the EIR, all of them cause the same or greater loss of farmland, except the No Project Alternative. The No Project Alternative does not meet the project objectives, and in fact, creates three significant impacts not caused by the project. Therefore, the No Project Alternative is not an acceptable means of reducing impacts to farmland.

Implementation of the Water Recycling Facility and River Access Improvements Project would result in benefits, including provision of polishing wetlands, improvement in water quality of water to be discharged or reused for agricultural irrigation, a buffer zone between the Water Recycling Facility and private land uses, and provision of a variety of educational and recreational facilities, such as trails, visitor center, use of the existing

farmhouse for public or city uses, visitor parking lot, educational kiosks, and use of cropland for habitat/host plants for butterflies.

In balancing the Project's benefits against the significant impacts to agriculture, the City finds that the public benefits of the Project outweigh the need to adopt Mitigation Measure AG-1, and that the benefits outweigh the unavoidable impacts, and therefore determines that the impacts of the Project are acceptable.