**DEPARTMENT OF VETERANS AFFAIRS**
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# Approval of the Rector Reservoir Bypass Valve Project

As the Undersecretary of the California Department of Veterans Affairs (CalVet), the lead agency for the Rector Reservoir Bypass Valve Project, I hereby make the following findings on this project:

CalVet is approving the Rector Reservoir Bypass Valve Project (State Clearinghouse No. 2020070017). The Project addressed in the EIR would implement an interim schedule for minimum environmental releases of water to Rector Creek below Rector Dam located in Napa County, California, approximately 2.5 miles northeast of the town of Yountville. The releases are needed to meet California Fish and Game Code 5937 requirements. To facilitate these releases, CalVet proposes to construct new facilities below Rector Dam to convey, monitor, and release stored water from the reservoir to Rector Creek. These facilities include a bypass valve at the base of Rector Dam and a raw water pipeline connecting the valve to a proposed outfall structure on Rector Creek downstream of the dam.

CalVet has certified that the Final EIR for the Rector Reservoir Bypass Valve Project has been completed in compliance with the Section 21080 et. al of the California Environmental Quality Act (CEQA).

CalVet has reviewed and considered the information contained in the Final EIR for the project. CalVet has reviewed the Findings for the project (Attachment A). The Findings are hereby approved and adopted by CalVet.

In accordance with Section 21081.6 of CEQA, the Mitigation Monitoring and Reporting Program for the Yountville SNF Project (Attachment A to the Findings) is hereby approved and adopted. Upon consideration of the Final EIR and the Environmental Findings, and in accordance with Section 15092 of the CEQA Guidelines, I hereby approve the Rector Reservoir Bypass Valve Project. CalVet hereby commits to carrying out the mitigation measures set forth in the Findings and the Mitigation Monitoring and Reporting Program. The Notice of Determination has been prepared in accordance with Section 15094 of the CEQA Guidelines and is hereby approved. CalVet staff is directed to arrange for the filing of the Notice of Determination. The record of approval for the project will be retained and made available for public review at the Department of General Services, Real Estate Services Division, Environmental Services Section, 707 3rd Street, Fourth Floor, West Sacramento, CA, 95605.

Russell Atterberry
Undersecretary

11/15/21
Date

# CEQA Findings and Statement of Overriding Considerations for the Rector Reservoir Valve Replacement Project

**State Clearinghouse No. 2020070017**

**November 2021**

**Prepared for:**

California Department of General Services
Real Estate Services Division
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**On Behalf of:**

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## 1.0 INTRODUCTION

The California Department of Veterans Affairs (CalVet) prepared a Draft and a Final Environmental Impact Report (EIR) for the Rector Reservoir Bypass Valve Project (Project) (State Clearinghouse No. 2020070017). The Project addressed in the EIR would implement an interim schedule for minimum environmental releases of water to Rector Creek below Rector Dam located in Napa County, California, approximately 2.5 miles northeast of the town of Yountville. The releases are needed to meet California Fish and Game Code 5937 requirements. To facilitate these releases, CalVet proposes to construct new facilities below Rector Dam to convey, monitor, and release stored water from the reservoir to Rector Creek. These facilities include a bypass valve at the base of Rector Dam and a raw water pipeline connecting the valve to a proposed outfall structure on Rector Creek downstream of the dam. The EIR considers the environmental effects of CalVet constructing and operating the Project. The findings set forth below regarding the project are adopted by the CalVet Undersecretary as CalVet's findings under the California Environmental Quality Act (CEQA) (Public Resources Code, § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.). The findings provide the written analysis and conclusions of CalVet regarding the project's environmental impacts and mitigation measures.

## 2.0 STATUTORY REQUIREMENTS FOR FINDINGS

Public Resources Code section 21081 and the CEQA Guidelines (14 Cal. Code Regs. § 15091 (a)) require that no public agency approve or carry out a project for which an EIR has been certified that identifies one or more significant effects of the project on the environment unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale of each finding. Pursuant to Public Resources Code section 21081 (a), the possible findings, which must be supported by substantial evidence in the record, are:

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

CEQA Guidelines section 15364 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic,

environmental, legal, social, and technological factors." When determining whether to approve a project, CEQA requires the decision-making agency to balance the project's economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, against the project's unavoidable environmental risks. If those benefits outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable" (CEQA Guidelines § 15093 (a)). When the lead agency approves a project that will result in the occurrence of significant effects that are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record (CEQA Guidelines § 15093 (b)). The Final EIR identified no significant impact that is unavoidable with implementation of feasible impact mitigation, thus these Findings do not include a statement of overriding considerations.

# 3.0 PROJECT DESCRIPTION

## 3.1 BACKGROUND AND NEED

Rector Creek flows from the east side of the Napa Valley and is a tributary to Conn Creek, which is a tributary to the Napa River. The State of California built Rector Dam in 1946 and CalVet has operated the dam and reservoir since that time to supply drinking water to the Veterans Home of California in Yountville, the Napa State Hospital, the California Department of Fish and Wildlife's (CDFW) Bay-Delta Region office, the Town of Yountville, and several local wineries. CalVet also supplies untreated water to the CDFW Silverado Fisheries Base (Fisheries Base), which includes a hatchery located along Rector Creek downstream of the dam, and to the CAL FIRE training facility, located at the base of Rector Dam. Water delivered to the Fisheries Base is returned to Rector Creek approximately 0.35 miles downstream of the spillway while water delivered to the other uses listed above are for consumptive purposes.

The stream reach below Rector Dam is accessible to anadromous fish. Neither CalVet's license to operate Rector Reservoir nor its water rights supporting those operations include specific instream flow release requirements. In response to a complaint filed in relation to the absence of specific instream flow release requirements, CalVet is proceeding in good faith to assess and implement minimum flow release requirements for Rector Reservoir and construct the needed infrastructure to facilitate these releases. In support of this effort a preliminary instream flow study was conducted to provide guidance in establishing an interim minimum flow release schedule at Rector Dam. CalVet recognizes the need for further data collection and analysis needed in order to establish an effective and sustainable long-term minimum flow release schedule for Rector Reservoir and is currently in the process of conducting additional data collection and analysis.

Rector Creek Dam is a 164-foot-high earth-fill structure with a crest elevation of 381.5 feet above Mean Sea Level (MSL). A tower with intake inverts at 270, 291, 307, 323, 335, and 339 feet above MSL supplies the low-level outlet, a 30-inch iron pipe. In order to facilitate long-term releases to Rector Creek below Rector Dam, CalVet proposes to construct a bypass water pipe to provide a constant flow back to the creek at a point immediately downstream of the dam. The Project would construct a "hot tap" (bypass valve) which would connect to the existing 36" diameter raw water main that runs beneath the dam and carries water from the reservoir's intake tower to the CalVet water treatment plant. The bypass valve would be installed between an existing 8" tap which serves the CDFW Fisheries Base and a 6" tap which serves the fire training facility. Raw water to be released to Rector Creek will be carried form the bypass valve via a short pipeline to an outfall structure located on the bank of Rector Creek. With the completion of the bypass valve facilities described above, CalVet would implement minimum flow releases to Rector Creek in accordance with the recommendations presented in the Rector Creek Preliminary Instream Flow and Stream Habitat Assessment prepared by Stillwater Sciences and dated July 2019 (Stillwater Sciences 2019). The Draft EIR analyzed implementation of the interim minimum flow release schedule and construction and operation of the bypass valve facilities at the project level. In recognition that, with the completion of ongoing long-term minimum release studies, permanent minimum flow release schedules may be implemented that could vary from the proposed interim schedule, the EIR will address the future establishment of a permanent schedule at a programmatic level.

## 3.2 PROJECT OBJECTIVES

With implementation of the Project, CalVet seeks to develop a flow regime with two specific objectives:

1. Compliance Goal: To allow sufficient water ("environmental flows") to pass over, around, or through Rector Dam to keep fish below the dam in good condition, and prevent unlawful take of federally or state designated protected species; and
2. Water Management Goal: To maintain the other purposes of the dam's operations while accomplishing the Compliance Goal, specifically to reduce or avoid adverse water supply impacts to all lawful users of water sourced from Rector Creek that may result from environmental flow releases.

## 3.3 PROJECT SUMMARY

Project facilities to be constructed include a bypass valve, 12- inch-diameter water pipeline, Rector Creek outfall structure, underground electrical/communications conduit, and Rector Creek erosion control measures. Specifically, the key components of the proposed Project include the following:

- Diversion pipeline to convey water from the existing 30-inch water line at the base of Rector Dam to the proposed bypass valve and from the bypass valve to Rector Creek;
- Bypass valve and flow meter;
- Underground electrical line and conduit between the bypass valve and CalVet WTP;
- Twelve-inch-diameter underground water pipeline between the bypass valve and proposed Rector Creek outfall; and
- Rector Creek outfall structure at the terminal end of that pipeline in Rector Creek and streambank erosion controls.

Upon completion of the bypass valve facilities described above, CalVet will implement minimum environmental releases to Rector Creek in accordance with the recommendations presented in Stillwater Sciences 2019. The interim release schedule to be implemented by the Project is shown in Table 1 below:

Table 1: Proposed interim environmental flow release schedule for outflows below Rector Creek Dam

**Table 1. Proposed interim environmental flow release schedule for outflows below Rector Creek Dam**

| Water-Year Type[1] | Minimum Environmental Flow Releases[2] (cfs) | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Oct | Nov | Dec 1-15 | Dec 16-31 | Jan | Feb 1-15 | Feb 16-30 | Mar 1-15 | Mar 16-31 | Apr | May | Jun | Jul | Aug | Sep |
| Wet | 0.8 | 0.8 | 1.5 | 2.5 | 3.5 | 4.0 | 4.0 | 4.5 | 4.5 | 2.5 | 2.5 | 1.0 | 0.8 | 0.8 | 0.8 |
| Above Normal | 0.7 | 0.7 | 1.3 | 1.3 | 3.5 | 4.0 | 4.0 | 4.5 | 3.0 | 2.5 | 2.5 | 1.0 | 0.5 | 0.5 | 0.5 |
| Below Normal | 0.7 | 0.7 | 1.3 | 1.3 | 2.5 | 2.5 | 4.0 | 3.5 | 3.0 | 2.5 | 2.5 | 1.0 | 0.5 | 0.5 | 0.5 |
| Dry | 0.25 | 0.50 | 1.0 | 1.0 | 2.0 | 2.5 | 2.5 | 3.0 | 3.0 | 2.5 | 1.5 | 1.0 | 0.25 | 0.25 | 0.25 |
| Critical | 0.25 | 0.50 | 1.0 | 1.0 | 2.0 | 2.2 | 2.2 | 2.8 | 2.8 | 2.5 | 1.0 | 0.5 | 0.25 | 0.25 | 0.25 |

[1] Water-Year Type based on the DWR Sacramento Valley Index.
[2] Rector Dam minimum environmental flow releases consider the Fisheries Base discharge releases for stream habitat; however, compliance is met by releases from Rector Dam.
Note: Flows shown shaded in blue represent the increased flow levels for winter and spring migration and spawning. These proposed interim flows reflect the combined releases through both the proposed bypass and the CDFW Fisheries Base.

In developing the interim release schedule presented above, Stillwater Sciences noted that multiple data limitations related to hydrology, fish condition, and instream flow conditions were encountered in the modeling of the reservoir storage and the development of the interim release schedule flows. These data limitations need to be addressed to better quantify the available water for releases downstream of Rector Reservoir and ultimate benefit to fisheries resources. Additional long-term studies are currently ongoing to provide these data. Upon completion of these studies, a permanent environmental flow schedule will be proposed, at which time supplemental environmental review may be conducted if warranted.

## 3.4 REQUIRED APPROVALS

### 3.4.1 CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS

The following approvals are required by CalVet:

- Certification of the Environmental Impact Report, approval of project findings, and approval of a mitigation monitoring and reporting program pursuant to CEQA.
- Authorization of State funds to implement the project. The proposed project is a State sponsored project on State-owned property.

### 3.4.2 RESPONSIBLE AND TRUSTEE AGENCIES

This EIR is available for the use of responsible, trustee, and other agencies that may have jurisdiction or approval authority for the proposed project. The following approvals and regulatory permits may be required for implementation of the proposed project and action alternatives:

- National Marine Fisheries Service (NMFS): Consultation under the Federal ESA as necessary for federal agency actions (Sections 7 and 10 of the ESA).
- USACE, Sacramento District: Compliance with Section 404 of the Clean Water Act (CWA) if discharge of dredged material or fill to waters of the United States would occur and compliance with Section 10 of the Rivers and Harbors Act of 1899 (33 U.S. Code (USC) 403) for work performed in, over, or under navigable waters of the United States (such as excavation of material from or deposition of material into navigable waters). Authorization to use lands managed by USACE.
- U.S. Fish and Wildlife Service (USFWS): Consultation under the federal ESA as necessary for federal agency actions (Sections 7 and 10 of the ESA).
- California Department of Fish and Wildlife (CDFW): Compliance with streambed alteration requirements (California Fish and Wildlife Code Section 1602) for modification to watercourses, and Section 2081 of the California ESA if take of listed species is likely to occur.

- The San Francisco Bay Regional Water Quality Control Board (RWQCB) implements water quality regulations under the federal CWA and the Porter-Cologne Water Quality Act. These regulations require compliance with the National Pollutant Discharge Elimination System (NPDES), including compliance with the California Storm Water NPDES General Construction Permit for discharges of stormwater runoff associated with construction activities. General Construction Permits for projects that disturb one or more acres of land require development and implementation of a Storm Water Pollution Prevention Plan. Under the Porter-Cologne Water Quality Act, the RWQCB regulates actions that would involve "discharging waste, or proposing to discharge waste, within any region that could affect the water of the state" (Water Code 13260(a)). Waters of the State are defined as "any surface water or groundwater, including saline waters, within the boundaries of the state" (Water Code 13050 (e)). The RWQCB regulates all such activities, as well as dredging, filling, or discharging materials into Waters of the State, not regulated by USACE due to a lack of connectivity with a navigable water body. The RWQCB may require issuance of a Waste Discharge Requirements (WDR) for these activities. Section 401 of the CWA requires a state-issued Water Quality Certification for all projects regulated under Section 404. In California, the RWQCBs issue Water Quality Certifications, with the RWQCB having jurisdiction over the project site.
- State Lands Commission: Acquisition of a lease for use of state lands in the construction and operation of the Project, if needed.

## 4.0 RECORD OF PROCEEDINGS AND CUSTODIAN OF DOCUMENTS

The record, upon which all findings and determinations related to the approval of the project are based, includes the following:

- The EIR including all appendices, technical studies, and documents referenced in or relied upon by the EIR.
- Responses to agency comments on the Draft EIR provided to each commenting agency on November 2, 2021.
- All information (including written evidence and testimony) provided by CalVet and DGS staff to the decisionmaker(s) relating to the EIR, the approvals, and the project.
- All information (including written evidence and testimony) presented to CalVet and DGS by the environmental consultant who prepared the EIR or incorporated into reports presented to CalVet.
- All information (including written evidence and testimony) presented to CalVet and DGS from other public agencies related to the project or the EIR.
- All information (including written evidence and testimony) presented at any CalVet public meeting related to the project and the EIR.
- All applications, letters, testimony, and presentations relating to the project.

- The Mitigation Monitoring and Reporting Program for the project.
- All findings and resolutions adopted by CalVet in connection with the project and all documents cited or referred to therein;
- All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the project prepared by CalVet, DGS, consultants to DGS, or responsible or trustee agencies with respect to DGS's compliance with the requirements of CEQA and with respect to CalVet's action on the project;
- All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

The California Department of General Services – Real Estate Services Division is the official custodian of the documents and other materials that constitute the record of the proceedings upon which CalVet's decisions are based. The contact for this material is:

Ms. Terry Ash

California Department of General Services

Real Estate Services Division

707 3rd Street, Fourth Floor

West Sacramento, California 95606

(916) 376-3824

## 5.0 CONSIDERATION AND CERTIFICATION OF THE EIR

In accordance with CEQA, CalVet concurrently with these findings hereby certifies that the Final EIR for the Rector Reservoir Bypass Valve Project has been completed in compliance with CEQA and the CEQA Guidelines and finds the EIR adequately addresses the environmental impacts of the project. CalVet finds and determines that the Final EIR provides:

- A comprehensive analysis of the relevant environmental issues sufficient to inform the CalVet, responsible agencies, members of the public, and other interested parties of the potential significant environmental effects of the Rector Reservoir Bypass Valve Project.
- A complete description of the environmental resources that may be affected, and discloses all of the direct, indirect and cumulative impacts relating to construction and operation of the development envisioned by the Rector Reservoir Bypass Valve Project.
- Management measures and mitigation measures that are designed to reduce or avoid significant environmental impacts to the extent feasible.
- Complete, good faith and reasoned responses to all comments on the Draft EIR that raise significant environmental issues.

CalVet has reviewed and considered, as a whole, the information contained in the EIR including the evidence and other information presented in public and agency comments, as well as the responses to those comments. This has provided CalVet with a comprehensive and well-rounded understanding of the environmental issues presented by the Rector Reservoir Bypass Valve Project. CalVet's findings are based on full appraisal of the evidence and other information contained in the Final EIR, as well as the evidence and other information in the record addressing the Final EIR. By adopting these findings, CalVet confirms and adopts the findings and conclusions of the EIR. The EIR and these findings represent the independent judgment and analysis of CalVet.

## 6.0 MITIGATION MONITORING AND REPORTING PROGRAM

As required by Public Resources Code section 21081.6, CalVet, in adopting these findings, also adopts the project Mitigation Monitoring and Reporting Program (MMRP). The MMRP is designed to ensure that, during implementation of the project, CalVet will comply with the adopted mitigation measures, listed within these findings as well as in the Final EIR. The MMRP is included in Attachment A of this CEQA Findings document. CalVet will use the MMRP to track compliance with the adopted mitigation.

## 7.0 LEGAL EFFECT OF FINDINGS

To the extent that these findings conclude that the management measures incorporated into the project design and the mitigation outlined in the Final EIR are feasible and have not been modified, superseded, or withdrawn, CalVet hereby binds itself to implement these measures. These findings, in other words, are not merely informational, but rather constitute a binding set of obligations that will come into effect when CalVet formally approves the project. The management measures and mitigation are included in the MMRP adopted concurrently with these findings and will be effectuated through the process of implementing the project (refer to Section 6.0 of these findings).

## 8.0 SIGNIFICANCE FINIDNGS

### 8.1 LESS THAN SIGNIFICANT IMPACTS AND AREAS OF NO IMPACT

CalVet agrees with the characterization of impacts identified as "less than significant" in the Draft EIR (Sections 3.2 through 3.11) and finds that those impacts have been described accurately and are less than significant as so described in the EIR. CalVet also agrees with determinations made in "Introduction to the Environmental Analysis" section (Section 3.1) in the Draft EIR that identified issues or thresholds of significance that are not applicable or that would have no or minimal impact due to the proposed Rector Reservoir Bypass Valve Project. This finding applies to the following impacts evaluated in the EIR determined to have "no impact" or to be "less than significant."

### 8.1.1 AIR QUALITY

Air quality impacts, as described in Chapter 3 of the Draft EIR (Section 3.2).

Impact: Conflict with or obstruct implementation of the applicable air quality plan (no impact)

Impact: Result in a cumulatively considerable net increase of a criteria pollutant for which the Project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors) (less than significant)

Impact: Expose sensitive receptors to substantial pollutant concentrations (less than significant)

Impact: Result in other emissions such as those leading to odors adversely affecting a substantial number of people (less than significant)

Impact: Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people (less than significant)

### 8.1.2 BIOLOGICAL RESOURCES

Biological resources impacts, as described in Chapter 3 of the Draft EIR (Section 3.3).

Impact: The Project could affect wildlife movement and/or migration (less than significant)

Impact: The Project would be implemented consistent with the intent of local policies and ordinances associated with protection of biological resources (less than significant)

Impact: The Project could conflict with HCPs, NCCPs, or other conservation plans (no impact)

### 8.1.3 GREENHOUSE GAS EMISSIONS

Impact: Generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment (less than significant)

Impact: Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs (less than significant)

### 8.1.4 GEOLOGY, SOILS, AND PALEONTOLOGICAL RESOURCES

Impact: Project facilities could be subject to seismic hazards, instability of existing fills, and settlement that could potentially result in future failure of those facilities (less than significant)

Impact: Directly impact a unique paleontological resource during excavation activities (no impact)

### 8.1.5 HAZARDS AND HAZARDOUS MATERIALS

Impact: Require the transport, storage and use of hazardous materials common for such activities and could result in their inadvertent release to the environment (less than significant)

### 8.1.6 NOISE

Impact: Result in short-term construction generated noise in excess of County standards (less than significant)

Impact: Project construction activities could generate groundborne vibration or groundborne noise levels (less than significant)

Impact: Result in exposing individuals residing or working in the Project area to excessive airport noise levels (less than significant)

### 8.1.7 UTILITIES AND SERVICE SYSTEMS: WATER SUPPLY

Impact: Result in the inability of CalVet to meet current water delivery commitments to its customers (less than significant)

### 8.1.8 CUMULATIVE IMPACTS

Project contributions to the cumulative effects of past, ongoing, and foreseeable future projects in the resources listed below were found to be less than considerable as described in either the Project Initial Study (Appendix 1.0 of the Draft EIR) or Chapter 3 of the Draft EIR:

- Cumulative aesthetic impacts (less than considerable)
- Cumulative impacts on agriculture and forestry resources (no impact)
- Cumulative air quality impacts (less than considerable)
- Cumulative impact on energy and greenhouse gas emissions (less than considerable)
- Cumulative impacts on geology, soils, and seismicity (less than considerable)
- Cumulative impacts on accidental release of hazard materials, hazards, and other hazardous materials (less than considerable)
- Cumulative water quality impacts (less than considerable)
- Cumulative flooding impacts (less than considerable)
- Cumulative groundwater impacts (less than considerable)
- Cumulative land use impacts (less than considerable)
- Cumulative impacts on mineral resources (no impact)

- Cumulative short-term construction related noise and vibration impacts (less than considerable)
- Cumulative long-term operation related noise impacts (no impact)
- Cumulative impacts related to population and housing (no impact)
- Cumulative transportation impacts (less than considerable)
- Cumulative wildfire impacts (less than considerable)

Project contributions to the cumulative impact on a resource area that require mitigation to reduce that contribution to less than considerable are described in Section 8.2 of these Findings.

### 8.1.9 OTHER ENVIRONMENTAL FACTORS CONSIDERED

As presented in Section 3.1 of the Draft EIR, Project effects on aesthetics, agricultural and forest resources, land use and planning, mineral resources, population and housing, public services, recreation and wildfire were assessed in the Initial Study prepared in advance of the Draft EIR. As shown in that section, potential Project impacts in those issue areas were determined to be less than significant in the Initial Study and therefore dismissed from further detailed analysis. CalVet concurs with the finding that the proposed Rector Reservoir Bypass Valve Project would have less-than-significant or no impact on these resources.

## 8.2 EFFECTS FOUND TO BE LESS THAN SIGNIFICANT OR LESS THAN CUMULATIVELY CONSIDERABLE WITH MITIGATION

CalVet agrees with the characterization in the Final EIR with respect to all impacts identified as "significant" or "potentially significant" that will be reduced to less-than-significant levels with implementation of the mitigation measures identified in the Final EIR and MMRP. In accordance with CEQA Guidelines Section 15091(a), a specific finding is made for each impact and its associated mitigation measures in the discussions below.

### 8.2.1 BIOLOGICAL RESOURCES

Biological resources impacts and mitigation, as described in Chapter 3 of the Draft EIR/EA (Section 3.3):

Impact 3.3-1: Project construction activities could adversely affect, either directly or through habitat modifications, species identified as a candidate, sensitive, or special-status wildlife species in local or regional plans, policies or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.

**Mitigation Measure BIO-1: Protect Water Quality and Minimize Sedimentation Runoff in Wetland and Non-Wetland Waters**

CalVet and its contractors shall ensure that the Project will comply with all construction site BMPs specified in the Storm Water Pollution Prevention Plan (if required) and/or Mitigation Measure HYD-1 to minimize the introduction of construction-related contaminants and mobilization of sediment in wetlands and non-wetland waters in and adjacent to the Project Study Area. These BMPs shall address soil stabilization, sediment control, wind erosion control, vehicle tracking control, non-stormwater management, and waste management practices. The BMPs shall be based on the best conventional and best available technology.

**Mitigation Measure BIO-2: Install Fencing and/or Flagging to Protect Sensitive Biological Resources Prior to Construction.** CalVet and its contractor shall install high-visibility orange construction fencing and/or flagging, as appropriate, along the perimeter of the work area where adjacent to Environmentally Sensitive Areas (e.g., any special-status species habitat and/or active bird nests that may be identified during per-construction surveys). CalVet shall ensure that the final construction plans show the locations where fencing will be installed. The plans also will define the fencing installation procedure. CalVet and the contractor (at the discretion of CalVet) shall ensure that fencing is maintained throughout the duration of the construction period. If the fencing is removed, damaged, or otherwise compromised during the construction period, construction activities will cease until the fencing is repaired or replaced. Project construction specifications shall provide clear language regarding acceptable fencing material and prohibited construction-related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within Environmentally Sensitive Areas. All temporary fencing shall be removed upon completion of construction.

**Mitigation Measure BIO-3: Conduct Environmental Awareness Training for Construction Personnel.** Before any work occurs within the project limits, including equipment staging, grading, and tree and/or vegetation removal (clear and grub), CalVet and its contractors shall retain a qualified biologist (familiar with the resources in the area) to conduct a mandatory contractor/worker environmental awareness training for construction personnel. The awareness training shall be provided to all construction personnel (contractors and subcontractors) prior to beginning construction to brief them on the need to avoid effects on sensitive biological resources adjacent to construction areas and the penalties for not complying with applicable state and federal laws and permit requirements. The biologist shall inform all construction personnel about the life history and habitat requirements of special-status species with potential for occurrence onsite, the importance of maintaining habitat, and the terms and conditions of any resource agency permit or approval. The environmental training shall also cover general restrictions and guidelines that must be followed by all construction personnel to reduce or avoid effects on sensitive biological resources during project construction.

**Mitigation Measure BIO-4: Conduct Preconstruction Surveys for California Red-legged Frog and Mitigate Impacts.** CalVet and its contractors shall retain a qualified

biologist to conduct a CRLF assessment according to the Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog (USFWS 2005). The USFWS will provide guidance, based on the initial assessment, whether field surveys are appropriate, where the field surveys should be conducted, and whether incidental take authorization should be obtained through Section 7 consultation or a Section 10 permit pursuant to the ESA as further described below.

- After the qualified biologist has completed a California red-legged frog habitat assessment in accordance with the Revised Guidance on Site Assessments and Field Surveys for the California red legged frog (U.S. Fish and Wildlife Service 2005) (survey protocol), the results of the habitat assessment shall be submitted to USFWS and CDFW for review and written acceptance prior to starting Project activities. If after review of the results of the habitat assessment, USFWS or CDFW determines that surveys are warranted, then surveys shall be conducted in accordance with the USFWS survey protocol prior to starting Project activities. Results of surveys shall also be submitted to CDFW for review and approval in writing.
    - If the Project may impact California red-legged frog based on the results of the habitat assessment and any surveys, the Project shall obtain authorization from USFWS for impacts to the species prior to project start.
    - If a California red-legged frog is discovered during the habitat assessment, surveys, or during Project construction, CalVet and its contractors shall delay/cease work immediately and contact CDFW and USFWS within 24 hours. In this event, Project work shall not resume/proceed until the frog, through its own volition, moves out of harm's way and CDFW and USFWS have provided permission in writing to proceed with the Project.

**Mitigation Measure BIO-5: Conduct Preconstruction "Clearance" Surveys for Foothill Yellow-legged Frog and Mitigate Impacts.** CalVet and its contractors shall retain a qualified biologist to perform a preconstruction survey within 24 hours prior to the initiation of construction to confirm the site is clear of FYLF. Should FYLF be detected during survey, and impacts cannot be avoided or minimized, a qualified biologist with a scientific collecting permit shall relocate frogs to suitable nearby habitat that would not be disturbed by Project construction. A qualified biologist, retained by CalVet and/or its contractors, shall conduct a habitat suitability assessment in the vicinity of the Project to determine where foothill yellow-legged frogs (FYLF) may occur in or adjacent to the Project area, including 500 feet upstream and downstream of the Project area and 50 feet from the streambed. If suitable habitat is identified, the biologist shall provide a FYLF survey methodology to CDFW for review and approval a minimum of 30 days prior to Project construction. No Project activities shall begin until FYLF surveys have been completed using a method approved by CDFW in writing. The survey methodology shall target all life stages and include wet and

dry stream surveys as possible. Surveys within the Project area shall include searching cavities under rocks and logs, within vegetation such as sedges and other clumped vegetation, and under undercut banks. Surveys should be conducted at different times of day and under variable weather conditions if possible. The qualified biologist shall also conduct a preconstruction survey for the species within 24 hours prior to construction activities before construction equipment mobilizes to the Project area. The qualified biologist shall have a minimum of two years' experience conducting habitat assessments and surveys for FYLF, with detections. If any FYLGs are found, the biologist shall prepare an avoidance, minimization, and relocation plan and submit it to CDFW for written acceptance and implement the plan prior to and during Project activities as applicable.

**Mitigation Measure BIO-6: Conduct Northwestern Pond Turtle Surveys and Mitigate Impacts.** CalVet and its contractors shall retain a qualified biologist to conduct a pre-construction northwestern pond turtle survey within 24 hours prior to the initiation of construction activities and retain a qualified biologist to survey immediately prior to ground-disturbing activities in suitable habitat. If northwestern pond turtle is found, consultation with CDFW shall be undertaken and a relocation plan shall be developed for Northwestern pond turtle encountered during construction. A qualified biologist, retained by CalVet and/or its contractors, shall conduct a habitat suitability assessment of the Project site to determine where western pond turtles may occur in or adjacent to the Project, prior to starting Project activities. In areas of suitable habitat, the qualified biologist shall conduct a preconstruction survey for the species within 48 hours prior to construction activities before construction equipment mobilizes to the project area. If any pond turtles or their nests are found, the biologist shall prepare a relocation plan and submit it to CDFW for written acceptance prior to starting Project activities, and then implement the plan. A pond turtle habitat improvement plan shall also be prepared and implemented if required by CDFW. Construction activities shall avoid all pond turtles and their nests including an appropriate buffer as determined by the qualified biologist.

**Mitigation Measure BIO-7: Conduct Vegetation Removal during the Non-breeding Season, Conduct Preconstruction Surveys for Nesting Migratory Birds, other Special Status Birds and Raptors and Avoid Impacts.** CalVet and its contractors shall conduct vegetation removal, where required to construct project features, during the non-breeding season for migratory birds and raptors (generally between September 16 and January 31) to the extent feasible. For Project activities that begin between February 1 and September 15, including tree and other vegetation removal, CalVet and its contractors shall retain a qualified biologist to conduct preconstruction surveys for white-tailed kite and other raptors to identify active nests on and within 500 feet of the Project site. For other special status birds and/or other nesting migratory birds, a qualified biologist shall conduct preconstruction nesting bird surveys on and within 100 feet of the Project site. These surveys shall be conducted within 147 days before the beginning of any construction activities between February 1 and September 15. Furthermore, should a lapse in construction of 7 days or more

occur during the nesting season, a qualified biologist shall conduct an additional survey and follow the protocols outlined herein, prior to resuming work. CalVet and its contractors shall avoid impacts to active raptor nests and any special-status bird and MBTA bird nests by establishing appropriate buffers around nests identified during preconstruction surveys; buffers shall be determined by a qualified biologist in consultation with CDFW. Project activity shall not commence within the buffer areas until a qualified biologist has determined, in coordination with CDFW, that the young have fledged, the nest is no longer active, or reducing the buffer would not result in nest abandonment. The size of the buffer may be adjusted if a qualified biologist and CalVet, in consultation with CDFW, determine that such an adjustment would not be likely to adversely affect the nest. Monitoring of the nest by a qualified biologist during construction activities may be necessary.

**Mitigation Measure BIO-8: Conduct Preconstruction Special Status Mammal Surveys for Roosting Bats and Implement Protection Measures**. CalVet and its contractors shall retain a qualified wildlife biologist to conduct bat roost surveys within 14 days before any tree removal or clearing. Locations of vegetation and any required tree removal or excavation shall be examined for potential bat roosts. Specific survey methodologies shall be determined in coordination with CDFW, and may include visual surveys of bats (e.g., observation of bats during foraging period), inspection for suitable habitat, bat sign (e.g., guano), or use of ultrasonic detectors (e.g., SonoBat, Anabat). Removal of any significant roost sites located onsite shall be avoided if feasible. If it is determined that an active roost site cannot be avoided and will be affected, bats shall be excluded from the roost site before the site is removed. The biologist shall first notify and consult with CDFW on appropriate bat exclusion methods and roost removal procedures. Exclusion methods may include use of one-way doors at roost entrances (bats may leave, but not reenter), or sealing roost entrances when the site can be confirmed to contain no bats. Once it is confirmed that all bats have left the roost, crews will be allowed to continue work in the area.

**Finding:** Implementation of Mitigation Measure BIO-1 would reduce the potential for Project-caused erosion and sedimentation and mitigate potential harm to sensitive aquatic biological resources due to erosion and sedimentation. Mitigation Measure BIO-2 will install high-visibility orange construction fencing and/or flagging, as appropriate, along the perimeter of the work area where adjacent to Environmentally Sensitive Areas (e.g., any special-status species habitat and/or active bird nests that may be identified during per-construction surveys. Mitigation Measure BIO-3 Mitigation Measure BIO-3 will require the contractor to conduct environmental awareness training for construction personnel for the identification and protection of sensitive resources found in the course of project construction. Mitigation Measure BIO-4 will require preconstruction surveys for California red-legged frog and implement protective measures if frogs are found in areas to be affected by Project construction. Mitigation Measure BIO-5 will require preconstruction "clearance" surveys for foothill yellow-legged frog and implementation of measures that will reduce the potential impacts to foothill yellow-legged frogs to a less-than-significant level. Mitigation Measure BIO-7 requires the contractor to conduct vegetation

removal during the non-breeding season, conduct preconstruction surveys for nesting migratory birds, other special status birds and raptors and avoid impacts to those species. Mitigation Measure BIO-8 requires preconstruction surveys for special status mammal surveys for roosting bats and the implementation of protection if individuals are found during those surveys.

With the implementation of Mitigation Measures BIO-1 through BIO-8, CalVet finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Impact 3.3-2: The Project could affect riparian habitat or sensitive natural communities.

***Implement Mitigation Measures BIO-2 and BIO-3 presented above.***

**Mitigation Measure BIO-9: Compensate for the Loss of Riparian Habitat and Restore Temporary Disturbed Areas.** To compensate for the permanent loss of riparian habitat communities, prior to construction, CalVet shall purchase habitat credits at an agency approved mitigation bank to ensure no net loss of riparian functions and values. To account for temporal loss, the Project shall purchase riparian credits at a 3:1 ratio. The final mitigation ratio and acreage shall be confirmed during review of final engineering drawings and may be modified during the CDFW Section 1602 permitting process which will dictate the ultimate compensation. CalVet shall provide written evidence to the resource agencies that compensation has been established through the purchase of mitigation credits. Alternatively, as part of the CDFW Streambed Alteration Agreement process, CalVet may provide a plan/proposal for CDFW approval to conduct on or offsite riparian habitat creation/enhancement to compensate for the Project's direct riparian impacts. All riparian areas subject to temporary construction disturbance shall be restored by CalVet and its contractors in accordance with a post construction Erosion Control and Habitat Restoration Plan (ECHRP). The ECHRP shall address all temporarily disturbed areas, be prepared by a qualified biologist, be developed as part of the CDFW Streambed Alteration Agreement process and be reviewed and approved by CDFW prior to implementation.

**Finding:** Mitigation Measure BIO-9 would provide compensation for the permanent loss of riparian habitat communities, prior to construction. Under the measure, CalVet shall purchase habitat credits at an agency approved mitigation bank to ensure no net loss of riparian functions and values. With the implementation of this measure, in combination with Mitigation Measure BIO-2, which implements measures to protect sensitive areas during construction, and Mitigation Measure BIO-3, which trains construction personnel to recognize and protect sensitive resources found during construction, CalVet finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Impact 3.3-7: Cumulative biological resources impact.

***Implement Project Mitigation Measures BIO-1 through BIO-8.***

**Finding:** With the implementation of Mitigation Measures BIO-1 through BIO-8, CalVet finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the Project's contribution to the cumulative impact on biological resources as identified in the Final EIR.

### 8.2.2 CULTURAL RESOURCES

Impact 3.4-1: Impact to historical resources

**Mitigation Measure CUL-1: Inadvertent Discovery.** CalVet and its contractors shall implement the following measures. If subsurface deposits believed to be cultural or human in origin are discovered during construction, then all work must halt within a 100-foot radius of the discovery. A qualified professional archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards for prehistoric and historic archaeology, shall be retained to evaluate the significance of the find, and shall have the authority to modify the no-work radius as appropriate, using professional judgment. The following notifications shall apply, depending on the nature of the find:

If the professional archaeologist determines that the find does not represent a cultural resource, then work may resume immediately, and no agency notifications are required.

If the professional archaeologist determines that the find does represent a cultural resource from any time period or cultural affiliation, then he or she shall immediately notify DGS. The agencies shall consult to determine whether the resource is an historical resource or a unique archaeological resource. Work cannot resume within the no-work radius until the lead agencies, through consultation as appropriate, determine that the site either: 1) is not a Historic Property according to Section 106 or a Historical Resource according to CEQA; or 2) that appropriate treatment measures have been completed to their satisfaction. Appropriate treatment measures are those consistent with CEQA Guidelines Section 15126.4(b) and Public Resources Code Section 21083.2.

If any archaeological find that includes Native American or potentially Native American resource that does not include human remains, the archaeologist shall notify the Mishewal-Wappo Tribe of Alexander Valley consistent with Mitigation Measure TCR-1.

**Finding:** Implementation of Mitigation Measure CUL-1 will reduce the potential impacts to unknown historic cultural resources to a less-than-significant level. The measure also provides directives for avoiding impacts to cultural resources uncovered during construction. CalVet finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Impact 3.4-2: Impacts to archaeological resources

***Implement Mitigation Measure CUL-1***

**Finding:** Implementation of Mitigation Measure CUL-1 will reduce the potential impacts to unknown archaeological resources to a less-than-significant level. The measure also provides directives for avoiding impacts to cultural resources uncovered during construction. CalVet finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Impact 3.4-3: Impacts to human remains

**Mitigation Measure CUL-2: Human Remains.** CalVet and its contractors shall implement the following measures. If the find includes human remains, or remains that are potentially human, CalVet and its contractors shall retain a professional archaeologist to ensure reasonable protection measures are taken to protect the discovery from disturbance. The archaeologist shall notify the Napa County Coroner (as per § 7050.5 of the Health and Safety Code). The provisions of Section 7050.5 of the California Health and Safety Code, § 5097.98 of the California PRC, and AB 2641 shall be implemented. If the Coroner determines the remains are Native American and not the result of a crime scene, the Coroner shall notify the NAHC, which then will designate a Native American Most Likely Descendant (MLD) for the project (§ 5097.98 of the PRC). The designated MLD shall have 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains. If CalVet does not agree with the recommendations of the MLD, then the NAHC can mediate (§ 5097.94 of the PRC). If no agreement is reached, CalVet must rebury the remains where they will not be further disturbed (§ 5097.98 of the PRC). This shall also include either recording the site with the NAHC or the appropriate Information Center; using an open space or conservation zoning designation or easement; or recording a reinternment document with the county in which the property is located. Work cannot resume within the no-work radius until the lead agencies, through consultation as appropriate, determine that the treatment measures have been completed to their satisfaction. This mitigation measure should be carried out consistent with Mitigation Measure TCR-1.

**Finding:** Mitigation Measure CUL-2 provides directives for avoiding impacts to human remains uncovered during construction. CalVet finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Impact 3.3-7: Project construction and operation could contribute to the cumulative impact on cultural resources.

***Implement Mitigation Measures CUL-1 and CUL-2***

**Finding:** With the implementation of Mitigation Measures CUL-1 and CUL-2, CalVet finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the Project's contribution to the cumulative impact on cultural resources as identified in the Final EIR.

### 8.2.3 GEOLOGY, SOILS, AND PALEONTOLOGICAL RESOURCES

Impact 3.6-1: The proposed project could result in soil erosion or the loss of topsoil.

***Implement Mitigation Measure HYD-1***

**Finding:** With Mitigation Measure HYD-1, CalVet and/or its contractor will prepare and implement a Construction Stormwater Erosion Control Plan and implement construction Best Management Practices (BMPs). Should a SWPPP not be required per Mitigation Measure BIO-1, the construction contractor shall submit a Construction Stormwater Erosion Control Plan to CalVet for review and approval. At a minimum, the Construction Stormwater Erosion Control Plan shall include the following erosion prevention BMPs as outlined in the measure. With implementation of this measure, CalVet finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

### 8.2.4 HYDROLOGY AND WATER QUALITY

Impact 3.8-1: The Project could adversely affect water quality during construction by increasing the concentration of pollutants in surface runoff from the Project site but would not significantly impact water quality during operation.

**Mitigation Measure HYD-1: Prepare and implement a Construction Stormwater Erosion Control Plan and implement construction Best Management Practices (BMPs).** Should a SWPPP not be required per Mitigation Measure BIO-1, the construction contractor shall submit a Construction Stormwater Erosion Control Plan to CalVet for review and approval. At a minimum, the Construction Stormwater Erosion Control Plan shall include the following erosion prevention BMPs which shall be implemented throughout Project construction:

- Diversion of offsite runoff away from the construction area;
- Silt containment measures including silt traps, ponds, perimeter straw wattles, silt fences and/or temporary basins shall be implemented onsite to trap sediment before it leaves the site;
- Regular sprinkling of exposed soils to control dust during construction during the dry season;

- Stockpile management to ensure materials stockpiles are upland of the Rector Creek ordinary high-water mark and contained with straw wattles or other silt containment measures;
- Erosion control measures maintained throughout the construction period;
- Construction scheduling to minimize soil disturbance during the wet weather season; and
- Regular inspections and maintenance BMPs and storm event monitoring.

**Finding:** With implementation of this Mitigation Measure HYD-1, CalVet finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

### 8.2.5 TRIBAL RESOURCES

Impact 3.10.1: Project construction could adversely affect tribal cultural resources.

**Mitigation Measure TCR-1: Unanticipated Discovery.** CalVet and its contractors shall implement the following measures. If any suspected TCRs or any archaeological find that includes Native American or potentially Native American resource that does not include human remains are discovered during ground disturbing construction activities, all work shall cease within 100 feet of the find. DGS, and/or the on-site archaeologist (if applicable) shall notify Mishewal-Wappo Tribe of Alexander Valley. The agencies shall consult with the tribe on a finding of eligibility and implement appropriate treatment measures, if the find is determined to be an Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines. Preservation in place is the preferred treatment, if feasible. Work cannot resume within the no-work radius until the lead agencies, through consultation as appropriate, determine that the site either: 1) is not an Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines; or 2) that the treatment measures have been completed to their satisfaction. This shall be carried out in congruence with the process outlined in mitigation measure CUL-1. Human Remains. If the find includes human remains, or remains that are potentially human, the measures outlined in Mitigation Measure CUL-2 shall be followed.

**Finding:** Implementation of Mitigation Measure TCR-1 will reduce the potential impacts to unknown TCRs to a less-than-significant level. The measure also provides directives for avoiding impacts to TCRs uncovered during construction. CalVet finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Impact 3.8.2: Project construction and operation could contribute to cumulative adverse impact on tribal cultural resources.

***Implement Mitigation Measure TCR-1***

**Finding:** With the implementation of Mitigation MeasureTCR-1, CalVet finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the Project's contribution to the cumulative impact on Tribal Cultural resources as identified in the Final EIR.

### 8.2.6 UTILITIES AND SERVICE SYSTEMS: WATER SUPPLY

Impact 3.11-3: Project construction activities could contribute to the cumulative impact on significant environmental resources.

***Implement all mitigation measures contained in Sections 3.2-3.10 and listed in Table ES-1 of the Draft EIR as revised in the Final EIR and shown above.***

**Finding:** As described above, implementation of mitigation measures presented in the Final EIR are adequate to avoid significant direct, indirect and cumulative Project impacts on significant environmental resources. As such, CalVet finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the Project's impact and contribution to the cumulative impact as identified in the Final EIR.

## 9.0 FINDINGS REGARDING PROJECT ALTERNATIVES

Where a lead agency has determined that, even with the adoption of all feasible mitigation measures, a proposed project would still cause one or more significant environmental impacts that cannot be substantially lessened or avoided, the agency, prior to approving the project as mitigated, must first determine whether, with respect to such impacts, there remain any project alternatives that are both environmentally superior and feasible within the meaning of CEQA. Although an EIR must evaluate this range of potentially feasible alternatives, an alternative may ultimately be deemed by the lead agency to be "infeasible" if it fails to fully promote the lead agency's underlying goals and objectives with respect to the project. Thus, even if a project alternative will avoid or substantially lessen any of the significant environmental effects of the project, the decision-makers may reject the alternative if they determine that specific considerations make the alternative infeasible, or if the alternative does not meet the objectives of the project.

All of the environmental impacts associated with the project would be substantially lessened or avoided with the adoption of the mitigation measures set forth in these findings. CalVet's goal in evaluating the project alternatives was to select an alternative that feasibly attains the project objectives, while further reducing the project's impacts.

CEQA Guidelines require that an EIR "describe a range of reasonable alternatives to the project, or to the location of the project, which could feasibly obtain the basic objectives of the project..." (CEQA Guidelines Section 15126.6[a]). The lead agency has the discretion to determine how

many alternatives constitute a reasonable range and that an EIR need not present alternatives that are incompatible with fundamental project objectives. Additionally, CEQA Guidelines Section 15126.6(a) provides that an EIR need not consider alternatives that are infeasible. CEQA Guidelines Section 15126.6(f)(1) provides that among the factors that may be taken into account when addressing the feasibility of alternatives are "site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries, and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site." CEQA Guidelines Section 15126.6(f) states that the range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The EIR analysis considered a reasonable range of alternatives. In accordance with CEQA Guidelines section 15126.6, a reasonable range of alternatives to the project are described in the Final EIR and summarized below.

## 9.1 ALTERNATIVES CONSIDERED BUT REJECTED

As described in Section 4.3 of the Draft EIR, Section 15126.6(a) of the CEQA Guidelines states:

> "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason."

In developing its approach to addressing the complaint by Water Audit and to fully comply with Fish and Game Code Section 5937, CalVet considered using existing facilities to implement its minimum environmental release schedule and, thus, avoid the need to construct a new bypass valve, pipeline, and outfall. This approach would use its existing diversion pipeline to the CDFW Fisheries Base to release water to Rector Creek at the base. Ongoing diversions to the base would be supplemented as needed to achieve the minimum environmental release schedule. This approach, however, was determined to be impractical for various reasons. Primarily, CDFW was unwilling to consent to use of its facilities to implement the expanded releases. Additionally, CalVet was concerned that the reliance on existing facilities would limit its ability to precisely monitor and manage releases it would implement under the new schedule.

## 9.2 ALTERNATIVES EVALUATED IN EIR

In addition to the proposed Project and No Project Alternative, two additional alternatives were analyzed in detail in the Draft EIR. These included Alternative 1: Alternate Pipeline Alignment

and Outfall Location, and Alternative 2: Expanded Interim Minimum Environmental Release Schedule.

### 9.2.1 ALTERNATIVE 1: ALTERNATE PIPELINE ALIGNMENT AND OUTFALL LOCATION

**Description:** Early in the design development of the proposed Project, CalVet considered placement of the proposed Rector Creek outfall bypass pipeline outfall approximately 500 feet downstream of the Project outfall location. Alternative 1 would construct an outfall structure at that location connecting to an underground bypass water line placed within the alignment shown in Figure 4-1 of the Draft EIR.

Under Alternative 1 the bypass pipeline from the hot tap to the outfall structure would be approximately 1,200 feet in length. The Alternative 1 pipeline alignment would be approximately 760 feet longer than that proposed for the Project. The Project pipeline would be approximately 440 feet in length between the hot tap and outfall. Aside from the location of the Alternative 1 outfall and the alignment of the pipeline connecting the outfall with the bypass valve, other features of the alternative, i.e., the bypass valve, electrical/communications line, hot tap and diversion pipeline would similar or identical to those of the Project. An evaluation of the potential for bank erosion at the Alternative 1 outfall site was not done and, thus, the need for the placement of riprap or other erosion control features to protect the outfall during high-flow events for Alternative 1 is unknown. The Draft EIR assumes that the placement of riprap at the Alternative 1 outfall location would be similar in quantity and aerial extent to that of the Project.

Under Alternative 1, the interim minimum environmental release schedule would be identical to that of the Project.

**Finding:** As described in Section 4.5 of the Draft EIR, Alternative 1 would place the proposed Rector Creek bypass pipeline outfall approximately 500 feet downstream of the Project outfall location. This would require the construction of a bypass pipeline that would be approximately 760 feet longer than the proposed Project. The total length of the Alternative 1 pipeline would be 1,200 feet total. Under Alternative 1 the bypass pipeline from the hot tap to the outfall structure would be approximately 1,200 feet in length compared to the Project which proposes an approximately 440-foot pipeline between the hot tap and outfall.

Due to the increased length of Alternative 1 pipeline construction, impacts to various resource issues, i.e., air quality, biological resources, cultural resources, greenhouse gas emissions, noise and tribal cultural issues would be of greater magnitude for Alternative 1 relative to the Project. In no instance, however, was it determined that Alternative 1 would result in significant impact where the Project would require substantially greater mitigation (relative to the Project) to reduce a significant impact to less than significant. Likewise, the analysis presented in Section 4.4 of the Draft EIR found no instance where Alternative 1 would avoid or substantially lessen a potentially significant impact of the Project. Long-term operations under Alternative 1 would be

identical to those of the proposed Project. Thus, impacts or benefits associated with future project operations would also be identical.

Given that significant impacts of the proposed project are not avoided by Alternative 1 and given that construction-related impacts on areas such as i.e., air quality, biological resources, cultural resources, greenhouse gas emissions, noise and tribal cultural issues would be of greater magnitude for Alternative 1 relative to the Project, Alternative 1 does not reduce environmental impacts relative to the Project. Pursuant to Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3), CalVet finds that although Alternative 1 would partially meet the project objectives, it would not avoid significant impacts and is not the environmentally superior alternative. For these reasons, CalVet rejects Alternative 1.

### 9.2.2 ALTERNATIVE 2: EXPANDED INTERIM MINIMUM ENVIRONMENTAL RELEASE SCHEDULE

**Description:** Alternative 2 would implement an environmental release schedule which would double monthly release rates of the schedule proposed for the Project. Facilities construction to facilitate future releases under this schedule would be identical to that proposed for the Project. Resource areas for which the benefit/impact would be substantially different between the Project and Alternative 2 include Biological Resources, specifically fish resources, and Utilities, specifically water supply. Alternative 2 would increase interim minimum environmental release rates and annual volumes relative to the Project. For reasons detailed in Section 3.3 of the Draft EIR, the primary benefit of this increased release for fish would be limited to water quality improvement in isolated pools used by native fish during the dry summer months. Increases in releases of the magnitude proposed for Alternative 2 would not substantially improve stream connectivity and the ability of fish to move along the stream channel relative to the Project. This is most evident during the dry summer months when proposed releases will do little to establish connections between isolated pools within which resident species reside in summer. The primary beneficial effect of the increased reservoir releases to Rector Creek, relative to the Project, is the likely improved water quality, i.e., reduced water temperatures in isolated pools downstream of the dam. This effect has not been modeled or quantified, but it is reasonable to conclude that, based on analysis presented in Stillwater Sciences (2019) and the discussion presented in Section 4.4 of the Draft EIR, increased releases to the creek could reduce temperatures in downstream isolated pools. As such, the benefit of Alternative 2 to resident and migratory fish in lower Rector Creek would be equal to, or greater than, that of the Project.

As described in Section 3.11 of the Draft EIR, the impact of future buildout and climate change on the Rector Reservoir system would have potentially significant adverse effects on water supply with implementation of the proposed minimum environmental flow release schedule. Increases in release flows under Alternative 2 would exacerbate this effect. The combination of full build out demand and the release schedule implementation would adversely affect reservoir operations and the ability of CalVet to meet future water demand for its customers. Water right

limitations would likely be violated, and the reservoir storage is drawn down to dead storage in the event of a recurrence of conditions experienced during the 2013 - 2015 drought assuming that future demand includes 500 AF/yr delivered to the Napa State Hospital.

**Finding:** Alternative 2 would provide additional benefit to lower Rector Creek resident fish populations by improving water quality, i.e., lowering summer water temperatures in isolated pools downstream of Rector Dam. Implementation of Alternative 2, however, would exacerbate the potential cumulative effect on water supply and reservoir operations identified for the Project. The effectiveness of mitigation identified for the Project to reduce the potential impact of Alternative 2 has not been modeled. Given that the benefit of Alternative 2 relative to the Project is anticipated to be limited and given that Alternative 2 would exacerbate a potentially considerable cumulative Project impact on water supply, Alternative 2 is not found to be environmentally superior to the Project. Pursuant to Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3), CalVet finds that, although Alternative 2 would partially meet the project objectives, it would not avoid significant impacts and is not the environmentally superior alternative. For these reasons, CalVet rejects Alternative 2.

### 9.2.3 NO PROJECT ALTERNATIVE

**Description:** CEQA requires evaluation of the No Project Alternative. Under the No Project Alternative, the Rector Reservoir Bypass Valve Project would not be implemented. Specifically, Project facilities, i.e., the proposed "hot tap" connection, bypass pipeline, bypass valve, underground electrical/communications line, Rector Creek outfall, and erosion control features would not be constructed. Additionally, the proposed schedule of interim minimum environmental releases from Rector Reservoir to Rector Creek would not be implemented. CalVet would continue to operate Rector Reservoir as it has historically as summarized in Section 2.1 of the Draft EIR, and as described in greater detail in Section 3.11 of the Draft EIR. Under the No Project Alternative, CalVet would accommodate future anticipated increases in water deliveries as water demand for existing users increases with expected buildout of those uses as described in Section 3.11 of the DEIR.

**Finding:** Section 15126.6(e)(2) of the CEQA Guidelines states in relevant part that, "If the environmentally superior alternative is the 'no project' alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives." For reasons presented above, the No Project Alternative is not considered the environmentally superior alternative. Although the No Project Alternative would not cause any construction or operational impacts, the benefit to downstream fish populations associated with proposed implementation of environmental release schedules under the Project and Alternatives 1 and 2 would not occur. As noted above, under the No Project Alternative, the Project objective to comply with California Fish and Game Code 5937 and "to allow sufficient water ("environmental flows") to pass over, around, or through Rector Dam to keep fish below the dam in good condition" would not be realized.

Pursuant to Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3), CalVet finds that because the No Project Alternative would not meet the project objectives, CalVet rejects the No Project Alternative.

# Attachment A
# Rector Reservoir Bypass Valve Project
# Mitigation Monitoring and Reporting Program

This proposed Mitigation Monitoring and Reporting Program (MMRP) has been prepared pursuant to the CEQA Guidelines, which state:

> In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency [the California Department of Veterans Affairs (CalVet), with assistance from the California Department of General Services – Real Estate Services Division (DGS)] 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. (§15097(a))
>
> The public agency may choose whether its program will monitor mitigation, report on mitigation, or both. "Reporting" generally consists of a written compliance review that is presented to the decision-making body or authorized staff person. A report may be required at various stages during project implementation or upon completion of the mitigation measure. "Monitoring" is generally an ongoing or periodic process of project oversight. There is often no clear distinction between monitoring and reporting and the program best suited to ensuring compliance in any given instance will usually involve elements of both. (§15097 (c))
>
> Table 1, below, lists the potentially significant impacts and mitigation measures identified in the EIR/EA. Table 1 also describes the timing of and responsibility for implementing the mitigation measures related to the Veterans Home of California Yountville Skilled Nursing Facility. The mitigation measures listed here will be implemented by CalVet and DGS, or by its appointee.

According to CEQA Guidelines Section 15126.4 (a)(2), "Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design." Therefore, CalVet and DGS will consider whether to adopt the mitigation measures when it considers whether to approve the project.

## ENVIRONMENTAL PROTECTION MEASURES INCORPORATED INTO THE PROJECT

The Draft EIR/EA identifies Best Management Practices (BMPs) related to air quality, storm water and drainage control (Section 2.5). These BMPs are part of the project, not mitigation measures, and are therefore not subject to the monitoring requirements of CEQA Guidelines Section 15097(a); however, the BMPs incorporated into the project are nonetheless listed in Table 2 below to provide a consolidated, complete reference to all the measures that will be

implemented to avoid or reduce the project's potential adverse environmental effects to less than significant levels.

# Mitigation Monitoring and Reporting Program: Rector Reservoir Bypass Valve Project

The California Environmental Quality Act (CEQA) (Public Resources Code [PRC] 21000 et seq) and CEQA Guidelines require a CEQA lead agency to adopt a program for monitoring or reporting on the measures it has imposed to mitigate or avoid significant environmental effects. As stated in the PRC:

> "…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."

Section 21081.6 provides general guidelines for implementing mitigation monitoring programs and indicates that specific reporting and/or monitoring requirements, to be enforced during project implementation, shall be defined prior to final certification of the EIR. The lead agency may delegate reporting or monitoring responsibilities to another public agency or a private entity, which accept delegations. The lead agency, however, remains responsible for ensuring that implementation of the mitigation measures occur in accordance with the program. In compliance with these requirements, the California Department of Veterans Affairs (CalVet) has prepared this Mitigation Monitoring and Reporting Program (MMRP) for the Rector Reservoir Bypass Valve Project (Project), and includes all of the mitigation measures identified in the Final Environmental Impact Report (FEIR). The FEIR concludes that with implementation of the mitigation measures identified in the FEIR, the Project would not result in any significant environmental effects. Each measure is identified with a prefix indicating the resource issue and a number. For example, the first mitigation measure addressing biological resource impacts is BIO-1.

The MMRP matrix below provides the full text of each mitigation measure and identifies the party or parties that will be responsible to implement the measure, the timing for implementing the measure, specific actions to be carried out, the agency responsible for monitoring mitigation implementation and effectiveness, and the action to be taken indicating full mitigation compliance. CalVet, as the lead agency adopting the mitigation measures, will have the ultimate responsibility for overseeing and ensuring implementation of all mitigation measures. The CalVet, may however, delegate the responsibility for implementation, funding, and reporting to another entity through legally binding agreement.

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| Mitigation Measures | Responsible For Implementation | Timing Of Implementation | Implementation Actions | Monitoring Agency | Action Indicating Compliance |
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| **BIOLOGICAL RESOURCES** | | | | | |
| **BIO-1: Protect Water Quality and Minimize Sedimentation Runoff in Wetlands and Non-Wetland Waters**<br>• CalVet and its contractors shall ensure that the Project will comply with all construction site BMPs specified in the Storm Water Pollution Prevention Plan (if required) and/or Mitigation Measure HYD-1 to minimize the introduction of construction-related contaminants and mobilization of sediment in wetlands and non-wetland waters in and adjacent to the Project Study Area. These BMPs shall address soil stabilization, sediment control, wind erosion control, vehicle tracking control, non-stormwater management, and waste management practices. The BMPs shall be based on the best conventional and best available technology. | CalVet and Construction Contractor | Prior to construction. | Prepare and implement SWPPP (if required). Certification of the SWPPP by the State Water Resources Control Board (SWRCB). | State Water Resources Control Board CalVet | Signed certification of the SWPPP by the SWRCB. |
| **BIO-2: Install Fencing and/or Flagging to Protect Sensitive Biological Resources**<br>• Prior to construction, CalVet and its contractor shall install high-visibility orange construction fencing and/or flagging, as appropriate, along the perimeter of the work area where adjacent to Environmentally Sensitive Areas (e.g., any special-status species habitat and/or active bird nests that may be identified during per-construction surveys). CalVet shall ensure that the final construction plans show the locations where fencing will be installed. The plans also will define the fencing installation procedure. CalVet and the contractor (at the discretion of CalVet) shall ensure that fencing is maintained throughout the duration of the construction period. If the fencing is removed, damaged, or otherwise compromised during the construction period, construction activities will cease until the fencing is repaired or replaced. Project construction specifications shall provide clear language regarding acceptable fencing material and | CalVet and Qualified Biologist | Prior to construction. | Project environmental consultant will consult with CDFW prior to construction. | CDFW and CalVet | Approval of weekly compliance log during project construction. |

| Mitigation Measures | Responsible For Implementation | Timing Of Implementation | Implementation Actions | Monitoring Agency | Action Indicating Compliance |
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| prohibited construction-related activities, vehicle operation, material and equipment storage, and other surface-disturbing activities within Environmentally Sensitive Areas. All temporary fencing shall be removed upon completion of construction. | | | | | |
| **BIO-3: Conduct Environmental Awareness Training for Construction Personnel**<br>• Before any work occurs within the project limits, including equipment staging, grading, and tree and/or vegetation removal (clear and grub), CalVet and its contractors shall retain a qualified biologist (familiar with the resources in the area) to conduct a mandatory contractor/worker environmental awareness training for construction personnel. The awareness training shall be provided to all construction personnel (contractors and subcontractors) prior to beginning construction to brief them on the need to avoid effects on sensitive biological resources adjacent to construction areas and the penalties for not complying with applicable state and federal laws and permit requirements. The biologist shall inform all construction personnel about the life history and habitat requirements of special-status species with potential for occurrence onsite, the importance of maintaining habitat, and the terms and conditions of any resource agency permit or approval. The environmental training shall also cover general restrictions and guidelines that must be followed by all construction personnel to reduce or avoid effects on sensitive biological resources during project construction. | CalVet, Qualified Biologist, and Construction Contractor | Prior to the start of ground disturbing activities. | The biologist provided by CalVet and approved by CDFW, herein referred to as "Qualified Biologist," will conduct the required bio-monitoring and construction crew training and will provide Resource Agencies with the record of crew training and the results of monitoring. | CalVet | Approval of weekly compliance log. |
| **BIO-4: *Conduct Preconstruction Surveys for California Red-legged Frog and Mitigate Impacts***<br><br>CalVet and its contractors shall retain a qualified biologist to conduct a CRLF assessment according to the *Revised Guidance on Site Assessments and Field Surveys for the California Red-* | CalVet and Qualified Biologist | Prior to construction. | Qualified Biologist will prepare preconstruction survey reports for submittal to the CDFW and | CDFW, USFWS, and CalVet | CDFW approval of survey results. If CRLF are found, written permission to proceed with |

| Mitigation Measures | Responsible For Implementation | Timing Of Implementation | Implementation Actions | Monitoring Agency | Action Indicating Compliance |
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| *legged Frog* (USFWS 2005). The USFWS will provide guidance, based on the initial assessment, whether field surveys are appropriate, where the field surveys should be conducted, and whether incidental take authorization should be obtained through Section 7 consultation or a Section 10 permit pursuant to the ESA as further described below.<br>• After the qualified biologist has completed a California red-legged frog habitat assessment in accordance with the Revised Guidance on Site Assessments and Field Surveys for the California red-legged frog (U.S. Fish and Wildlife Service 2005) (survey protocol), the results of the habitat assessment shall be submitted to USFWS and CDFW for review and written acceptance prior to starting Project activities. If after review of the results of the habitat assessment, USFWS or CDFW determines that surveys are warranted, then surveys shall be conducted in accordance with the USFWS survey protocol prior to starting Project activities. Results of surveys shall also be submitted to CDFW for review and approval in writing.<br>• If the Project may impact California red-legged frog based on the results of the habitat assessment and any surveys, the Project shall obtain authorization from USFWS for impacts to the species prior to project start.<br>• If a California red-legged frog is discovered during the habitat assessment, surveys, or during Project construction, CalVet and its contractors shall delay/cease work immediately and contact CDFW and USFWS within 24 hours. In this event, Project work shall not resume/proceed until the frog, through its own volition, moves out of harm's way and CDFW and USFWS have provided permission in writing to proceed with the Project. | | | USFEWS. If CRLF are found, CDFW and USFWS will provide written permission to proceed with Project construction. | | construction from CDFW and USFWS. |

| Mitigation Measures | Responsible For Implementation | Timing Of Implementation | Implementation Actions | Monitoring Agency | Action Indicating Compliance |
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| **BIO-5: Conduct Preconstruction "Clearance" Surveys for Foothill Yellow-Legged Frog and Mitigate Impacts**<br><br>A qualified biologist, retained by CalVet and/or its contractors, shall conduct a habitat suitability assessment in the vicinity of the Project to determine where foothill yellow-legged frogs (FYLF) may occur in or adjacent to the Project area, including 500 feet upstream and downstream of the Project area and 50 feet from the streambed. If suitable habitat is identified, the biologist shall provide a FYLF survey methodology to CDFW for review and approval a minimum of 30 days prior to Project construction. No Project activities shall begin until FYLF surveys have been completed using a method approved by CDFW in writing. The survey methodology shall target all life stages and include wet and dry stream surveys as possible. Surveys within the Project area shall include searching cavities under rocks and logs, within vegetation such as sedges and other clumped vegetation, and under undercut banks. Surveys should be conducted at different times of day and under variable weather conditions if possible. The qualified biologist shall also conduct a preconstruction survey for the species within 24 hours prior to construction activities before construction equipment mobilizes to the Project area. The qualified biologist shall have a minimum of two years' experience conducting habitat assessments and surveys for FYLF, with detections. If any FYLGs are found, the biologist shall prepare an avoidance, minimization, and relocation plan and submit it to CDFW for written acceptance and implement the plan prior to and during Project activities as applicable. | CalVet and Qualified Biologist | Prior to construction. | Qualified Biologist will prepare preconstruction survey reports for submittal to the CDFW. If FYLF are found, prepare and implement an avoidance, minimization, and relocation plan and submit it to CDFW for written acceptance. | CDFW and CalVet | CDFW approval of preconstruction survey reports. If FYLF are found, written acceptance of avoidance, minimization and relocation plan by CDFW. |
| **BIO-6: Conduct Northwestern Pond Turtle Surveys and Mitigate Impacts**<br><br>CalVet and its contractors shall retain a qualified biologist to conduct a pre-construction northwestern pond turtle survey within 24 hours prior to the initiation of construction activities and retain a qualified biologist to survey immediately prior to ground-disturbing | CalVet and Qualified Biologist | Prior to and during<br><br>Construction | Qualified Biologist will prepare preconstruction survey reports for submittal to the CDFW. If NPT are found, prepare and | CDFW and CalVet | CDFW approval of preconstruction survey reports. If NPT are found, written acceptance of avoidance, minimization and |

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| activities in suitable habitat. If northwestern pond turtle is found, consultation with CDFW shall be undertaken and a relocation plan shall be developed for Northwestern pond turtle encountered during construction. A qualified biologist, retained by CalVet and/or its contractors, shall conduct a habitat suitability assessment of the Project site to determine where western pond turtles may occur in or adjacent to the Project, prior to starting Project activities. In areas of suitable habitat, the qualified biologist shall conduct a preconstruction survey for the species within 48 hours prior to construction activities before construction equipment mobilizes to the project area. If any pond turtles or their nests are found, the biologist shall prepare a relocation plan and submit it to CDFW for written acceptance prior to starting Project activities, and then implement the plan. A pond turtle habitat improvement plan shall also be prepared and implemented if required by CDFW. Construction activities shall avoid all pond turtles and their nests including an appropriate buffer as determined by the qualified biologist. | | | implement an avoidance, minimization, and relocation plan and submit it to CDFW for written acceptance. | | relocation plan by CDFW. |
| **BIO-7: Conduct Vegetation Removal during the Non-breeding Season, Conduct Preconstruction Surveys for Nesting Migratory Birds, other Special Status Birds and Raptors and Avoid Impacts**<br><br>CalVet and its contractors shall conduct vegetation removal, where required to construct project features, during the non-breeding season for migratory birds and raptors (generally between September 16 and January 31) to the extent feasible.<br><br>For Project activities that begin between February 1 and September 15, including tree and other vegetation removal, CalVet and its contractors shall retain a qualified biologist to conduct preconstruction surveys for white-tailed kite and other raptors to identify active nests on and within 500 feet of the Project site. For other special status birds and/or other nesting migratory birds, a qualified biologist shall conduct preconstruction nesting bird | CalVet and Qualified Biologist | Prior to and during<br><br>Construction | Qualified Biologist will prepare preconstruction survey reports. If active raptor nests are found within 100 feet of the site, carry out actions described in BIO-7. | CDFW and<br><br>CalVet | If active raptor nests are found, CDFW approval to proceed with construction. |

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| surveys on and within 100 feet of the Project site. These surveys shall be conducted within 147 days before the beginning of any construction activities between February 1 and September 15. Furthermore, should a lapse in construction of 7 days or more occur during the nesting season, a qualified biologist shall conduct an additional survey and follow the protocols outlined herein, prior to resuming work.<br><br>CalVet and its contractors shall avoid impacts to active raptor nests and any special-status bird and MBTA bird nests by establishing appropriate buffers around nests identified during preconstruction surveys; buffers shall be determined by a qualified biologist in consultation with CDFW. Project activity shall not commence within the buffer areas until a qualified biologist has determined, in coordination with CDFW, that the young have fledged, the nest is no longer active, or reducing the buffer would not result in nest abandonment. The size of the buffer may be adjusted if a qualified biologist and CalVet, in consultation with CDFW, determine that such an adjustment would not be likely to adversely affect the nest. Monitoring of the nest by a qualified biologist during construction activities may be necessary. | | | | | |
| **BIO-8: Conduct Preconstruction Special Status Mammal Surveys for Roosting Bats and Implement Protection Measures**<br><br>CalVet and its contractors shall retain a qualified wildlife biologist to conduct bat roost surveys within 14 days before any tree removal or clearing. Locations of vegetation and any required tree removal or excavation shall be examined for potential bat roosts. Specific survey methodologies shall be determined in coordination with CDFW, and may include visual surveys of bats (e.g., observation of bats during foraging period), inspection for suitable habitat, bat sign (e.g., guano), or use of ultrasonic detectors (e.g., SonoBat, Anabat). | CalVet and Qualified Biologist | Prior to and during<br><br>Construction | Qualified Biologist will prepare preconstruction survey reports for submittal to CDFW. If found, carry out actions presented in BIO-8. | CDFW and CalVet | If found, CDFW confirmation that bats have left roost. |

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| Removal of any significant roost sites located onsite shall be avoided if feasible.<br>• If it is determined that an active roost site cannot be avoided and will be affected, bats shall be excluded from the roost site before the site is removed. The biologist shall first notify and consult with CDFW on appropriate bat exclusion methods and roost removal procedures. Exclusion methods may include use of one-way doors at roost entrances (bats may leave, but not reenter), or sealing roost entrances when the site can be confirmed to contain no bats. Once it is confirmed that all bats have left the roost, crews will be allowed to continue work in the area. | | | | | |
| **BIO-9: Compensate for the Loss of Riparian Habitat and Restore Temporary Disturbed Areas**<br><br>To compensate for the permanent loss of riparian habitat communities, prior to construction, CalVet shall purchase habitat credits at an agency approved mitigation bank to ensure no net loss of riparian functions and values. To account for temporal loss, the Project shall purchase riparian credits at a 3:1 ratio. The final mitigation ratio and acreage shall be confirmed during review of final engineering drawings and may be modified during the CDFW Section 1602 permitting process which will dictate the ultimate compensation.<br><br>CalVet shall provide written evidence to the resource agencies that compensation has been established through the purchase of mitigation credits. Alternatively, as part of the CDFW Streambed Alteration Agreement process, CalVet may provide a plan/proposal for CDFW approval to conduct on or offsite riparian habitat creation/enhancement to compensate for the Project's direct riparian impacts.<br>• All riparian areas subject to temporary construction | CalVet | Prior to construction. | Implement compensation or alternative actions described in BIO-9. | CalVet | Acquisition of a Section 404 Permit and for a 401 Water Quality Certification for the Project from USACE and RWQCB. |

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| disturbance shall be restored by CalVet and its contractors in accordance with a post construction Erosion Control and Habitat Restoration Plan (ECHRP). The ECHRP shall address all temporarily disturbed areas, be prepared by a qualified biologist, be developed as part of the CDFG Streambed Alteration Agreement process and be reviewed and approved by CDFW prior to implementation. | | | | | |
| **CULTURAL RESOURCES** | | | | | |
| **CUL-1 Inadvertent Discovery**<br><br>CalVet and its contractors shall implement the following measures. If subsurface deposits believed to be cultural or human in origin are discovered during construction, then all work must halt within a 100-foot radius of the discovery. A qualified professional archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards for prehistoric and historic archaeology, shall be retained to evaluate the significance of the find, and shall have the authority to modify the no-work radius as appropriate, using professional judgment. The following notifications shall apply, depending on the nature of the find:<br>• If the professional archaeologist determines that the find does not represent a cultural resource, then work may resume immediately, and no agency notifications are required.<br>• If the professional archaeologist determines that the find does represent a cultural resource from any time period or cultural affiliation, then he or she shall immediately notify DGS. The agencies shall consult to determine whether the resource is an historical resource or a unique archaeological resource. Work cannot resume within the no-work radius until the lead agencies, through consultation as appropriate, determine that the site either: 1) is not a Historic Property according to Section 106 or a Historical Resource according to CEQA; or 2) that appropriate treatment measures have been completed | CalVet and Qualified Archaeologist | During construction. | If deposits are found, CalVet will retain a qualified archaeologist to implement actions listed in CUL-1. | CalVet | As described in CUL-1 consistent with the nature of the find. |

| Mitigation Measures | Responsible For Implementation | Timing Of Implementation | Implementation Actions | Monitoring Agency | Action Indicating Compliance |
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| to their satisfaction. Appropriate treatment measures are those consistent with CEQA Guidelines Section 15126.4(b) and Public Resources Code Section 21083.2.<br><br>If any archaeological find that includes Native American or potentially Native American resource that does not include human remains, the archaeologist shall notify the Mishewal-Wappo Tribe of Alexander Valley consistent with Mitigation Measure TCR-1. | | | | | |
| **CUL-2 Human Remains**<br>• CalVet and its contractors shall implement the following measures. If the find includes human remains, or remains that are potentially human, CalVet and its contractors shall retain a professional archaeologist to ensure reasonable protection measures are taken to protect the discovery from disturbance. The archaeologist shall notify the Napa County Coroner (as per § 7050.5 of the Health and Safety Code). The provisions of Section 7050.5 of the California Health and Safety Code, § 5097.98 of the California PRC, and AB 2641 shall be implemented. If the Coroner determines the remains are Native American and not the result of a crime scene, the Coroner shall notify the NAHC, which then will designate a Native American Most Likely Descendant (MLD) for the project (§ 5097.98 of the PRC). The designated MLD shall have 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains. If CalVet does not agree with the recommendations of the MLD, then the NAHC can mediate (§ 5097.94 of the PRC). If no agreement is reached, CalVet must rebury the remains where they will not be further disturbed (§ 5097.98 of the PRC). This shall also include either recording the site with the NAHC or the appropriate Information Center; using an open space or conservation zoning designation or easement; or recording a reinternment document with the county in which the property is located. Work cannot resume within the no-work radius until the lead agencies, through consultation as | CalVet and Construction Contractor | During construction. | In the event of discovery of human remains, implement actions from MM **CUL-2** including cease work within 100 feet of the discovery and notify County Coroner.<br><br>If the remains are determined to be Native American, the project archaeologist will coordinate with the Most Likely Descendent to ensure proper treatment of the remains. | CalVet | Through consultation with the appropriate agencies, CalVet determination the treatment measures have been completed to agency satisfaction. |

| Mitigation Measures | Responsible For Implementation | Timing Of Implementation | Implementation Actions | Monitoring Agency | Action Indicating Compliance |
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| appropriate, determine that the treatment measures have been completed to their satisfaction. This mitigation measure should be carried out consistent with Mitigation Measure TCR-1. | | | | | |
| **HYDROLOGY AND WATER QUALITY** | | | | | |
| **HYD-1: Prepare and implement a Construction Stormwater Erosion Control Plan and implement construction Best Management Practices (BMPs).**<br><br>Should a SWPPP not be required per Mitigation Measure BIO-1, the construction contractor shall submit a Construction Stormwater Erosion Control Plan to CalVet for review and approval. At a minimum, the Construction Stormwater Erosion Control Plan shall include the following erosion prevention BMPs which shall be implemented throughout Project construction:<br>• Diversion of offsite runoff away from the construction area;<br>• Silt containment measures including silt traps, ponds, perimeter straw wattles, silt fences and/or temporary basins shall be implemented onsite to trap sediment before it leaves the site;<br>• Regular sprinkling of exposed soils to control dust during construction during the dry season;<br>• Stockpile management to ensure materials stockpiles are upland of the Rector Creek ordinary high-water mark and contained with straw wattles or other silt containment measures;<br>• Erosion control measures maintained throughout the construction period;<br>• Construction scheduling to minimize soil disturbance during the wet weather season; and<br>• Regular inspections and maintenance BMPs and storm event | CalVet and Construction Contractor. | Prior to and during construction. | Carry out actions described in HYD-1. | CalVet | Approval and implementation of the Stormwater Erosion Control Plan. |

| Mitigation Measures | Responsible For Implementation | Timing Of Implementation | Implementation Actions | Monitoring Agency | Action Indicating Compliance |
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| monitoring. | | | | | |
| **TRIBAL CULTURAL RESOURCES** | | | | | |
| **TCR-1: Unanticipated Discovery**<br><br>CalVet and its contractors shall implement the following measures. If any suspected TCRs or any archaeological find that includes Native American or potentially Native American resource that does not include human remains are discovered during ground disturbing construction activities, all work shall cease within 100 feet of the find. CalVet, and/or the on-site archaeologist (if applicable) shall notify Mishewal-Wappo Tribe of Alexander Valley. The agencies shall consult with the tribe on a finding of eligibility and implement appropriate treatment measures, if the find is determined to be an Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines. Preservation in place is the preferred treatment, if feasible. Work cannot resume within the no-work radius until the lead agencies, through consultation as appropriate, determine that the site either: 1) is not an Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines; or 2) that the treatment measures have been completed to their satisfaction. This shall be carried out in congruence with the process outlined in mitigation measure CUL-1.<br><br>Human Remains. If the find includes human remains, or remains that are potentially human, the measures outlined in Mitigation Measure CUL-2 shall be followed. | CalVet and Tribal representative. | During construction. | If TCRs are found, CalVet will notify Tribal representatives and carry out actions described in TCR-1. | CalVet | Determination by the Mishewal-Wappo Tribe that the site either: 1) is not an Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines; or 2) that the treatment measures have been completed to their satisfaction. |

| Mitigation Measures | Responsible For Implementation | Timing Of Implementation | Implementation Actions | Monitoring Agency | Action Indicating Compliance |
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| **UTILITIES AND SERVICE SYSTEMS: WATER SUPPLY** | | | | | |
| **UTIL-1: Alternate Water Supply to Napa State Hospital.**<br><br>In the event that Napa State Hospital pursues a future agreement with CalVet to provide the hospital with up to 500 AF/yr of potable water, CalVet shall assess its water supply availability taking into account its interim or long-term environmental release schedule, whichever is in effect at the time, and its current consumptive water demand from existing customers. If CalVet determines such an agreement would adversely affect Rector Reservoir operations and result in infringement on the conditions of its water rights license and/or its ability to meet the consumptive water demand of its current customers, CalVet shall not enter into a new agreement with Napa State Hospital. CalVet shall then work with the hospital to identify and secure feasible alternative sources of potable water to meet its demand. An alternate water source includes, but, is not limited to, the City of Napa which currently supplies the hospital with potable water. | CalVet | During operation of the Project. | As described in UTIL-1 in the event Napa State Hospital pursues a future water supply agreement with CalVet. | CalVet | Identification of an alternate water supply source for Napa State Hospital. |