

Exhibit B

Lower Deer Creek
Flood and Ecosystem Improvement Project,
Phase 1

Findings and Statement of
Overriding Considerations under the
California Environmental Quality Act

State Clearinghouse #2020120149

MARCH 2022



Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

Contents

1.0 Introduction	page 1-1
1.1 Discretionary Approval	page 1-1
2.0 Findings On Environmental Impacts	page 2-1
2.1 Potentially Significant Impacts Reduced to Less Than Significant	page 2-4
2.1.1 Agricultural Resources and Land Use	page 2-4
2.1.2 Biological Resources – Fish and Aquatic Habita	page 2-5
2.1.3 Biological Resources – Wetlands and Other Waters	page 2-9
2.1.4 Biological Resources – Vegetation	page 2-11
2.1.5 Biological Resources – Wildlife	page 2-15
2.1.6 Cultural and Tribal Cultural Resources	page 2-23
2.1.7 Geology, Soils, and Paleontological Resources	page 2-28
2.1.8 Hazards and Hazardous Materials	page 2-31
2.1.9 Transportation	page 2-35
2.1.10 Utilities and Service Systems	page 2-37
2.1.11 Water Quality	page 2-39
2.1.12 Wildfires	page 2-41
2.2 Potentially Significant and Unavoidable Impacts	page 2-42
2.2.1 Agricultural Resources and Land Use	page 2-42
2.2.2 Air Quality	page 2-44
2.2.3 Greenhouse Gas Emissions and Climate Change	page 2-48
2.2.4 Noise and Vibration	page 2-51

Findings and Statement of Overriding Considerations under CEQA

3.0 Findings Related to Project Alternatives	page 3-1
3.1 Discussion	page 3-1
3.2 Findings	page 3-3
4.0 Statement of Overriding Considerations	page 4-1
4.1 Fundamental Project Purpose and Objectives	page 4-1
4.2 Findings	page 4-2
5.0 References	page 5-1
Useful Web Links	page 5-2

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

Acronyms and Abbreviations

AB	Assembly Bill
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CFGC	California Fish and Game Code
CFR	Code of Federal Regulations
CRHR	California Register of Historic Resources
CTCP	construction traffic control plan
CVRWQCB	Central Valley Regional Water Quality Control Board
DEIR	draft environmental impact report
DPM	diesel particulate matter
DWR	California Department of Water Resources
EO	executive order
FEIR	final environmental impact report
GHG	greenhouse gas
LOS	level of service
MMRP	Mitigation, Monitoring, and Reporting Program
MT CO ₂ e	metric tons of carbon dioxide equivalent
NAHC	California Native American Heritage Commission

Findings and Statement of Overriding Considerations under CEQA

NMFS	National Marine Fisheries Service
NPDES	Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
PRC	Public Resources Code
project	Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1
SB	Senate Bill
SPCCP	spill prevention control and countermeasures plan
SR	State Route
SVRIC	Stanford-Vina Ranch Irrigation Company
SWRCB	State Water Resources Control Board
TCAPCD	Tehama County Air Pollution Control District
TCP	traditional cultural property
TCR	tribal cultural resource
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service
VELB	valley elderberry longhorn beetle

Chapter 1. Introduction

The California Department of Water Resources (DWR), acting as lead agency under the California Environmental Quality Act (CEQA), prepared a 2021 draft environmental impact report (DEIR) and a 2022 final EIR (FEIR) that evaluated potential impacts on the physical environment associated with the proposed Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1 (herein referred to as “project”). The project is located in Tehama County, California, along the lower 8 miles of Deer Creek from 2 miles upstream of Red Bridge to the confluence with the Sacramento River and along the lower 2.6 miles of China Slough to the confluence with Deer Creek. The purpose of the project is multi-benefit:

- Reduce flood risk to lands adjacent to Deer Creek by improving the flood management system.
- Improve the geomorphic function of Deer Creek.
- Increase and improve spawning and rearing habitat for protected fish species in Deer Creek.

1.1 Discretionary Approval

The DEIR identified the no project alternative and six “build” alternatives (A through F). After reviewing public comments and considering the impacts and benefits of the alternatives identified in the DEIR, DWR has determined Alternative A to be the preferred alternative for the proposed project, which includes both beneficial impacts as well as significant and unavoidable adverse impacts to resource areas. Of the six alternatives, Alternative A includes the largest proposed area in the levee setback reach, which would provide the greatest environmental benefits and meet all of the project objectives. Alternative A is also the environmentally superior alternative.

Acting as the CEQA lead agency, DWR has completed the 2022 FEIR for the project in accordance with CEQA Guidelines Section 15089 and certified the 2022 FEIR as adequate in accordance with CEQA Guidelines Section 15090. As required by CEQA Guidelines Section 15132, the FEIR includes a list of persons, organizations, and public agencies that commented on the DEIR, the comments submitted, and DWR’s responses to significant environmental

Findings and Statement of Overriding Considerations under CEQA

points raised (see comments on the 2021 DEIR and responses to comments in the 2022 FEIR Appendix I).

DWR has separately prepared an approval memorandum regarding the project that includes a Decision Document (dated March 8, 2022). The Decision Document makes the decisions required by CEQA, including:

- Certification of the FEIR (Exhibit A to the memorandum) as adequate.
- Adoption of the Findings and Statement of Overriding Considerations (this document, which is Exhibit B to the memorandum).
- Adoption of a Mitigation, Monitoring, and Reporting Program (MMRP) (Exhibit C to the memorandum).
- Submission of the Notice of Determination (Exhibit D to the memorandum).

In accordance with CEQA Section 21081 and CEQA Guidelines Section 15091, this document includes findings that set out relevant findings of fact regarding significant impacts of the project, including all adopted mitigation measures for specific impacts (see Sections 2.0 and 3.0, below). No mitigation measures proposed for potential significant impacts identified in the DEIR were rejected as infeasible.

Any summaries or references to the 2021 DEIR or 2022 FEIR are not intended to be a comprehensive restatement of the analysis in these documents or other information in the record and do not substitute for these documents, but rather provide background and context for the findings. A full explanation of the findings and impact analysis rationale relating to all resource areas and all EIR alternatives can be found in the 2021 DEIR. Each specific finding is supported by substantial evidence. Mitigation measures are binding following formal adoption of these findings and an enforceable MMRP for the project, which includes these measures.

In accordance with CEQA Guidelines Section 15093, this document also includes a Statement of Overriding Considerations for significant and unavoidable impacts to resource areas as a result of project implementation. DWR's finding pursuant to CEQA Guidelines Section 15093(a), supported by substantial evidence, is set forth in Chapter 4, "Statement of Overriding Considerations," of this document.

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

As required by CEQA Guidelines Section 15091(e), the custodian and location of the 2022 FEIR are as follows:

California Department of Water Resources
Attn: Amy Lyons
2440 Main Street
Red Bluff, CA 96080

Other documents included in the record of the proceedings may be found in other locations but can be obtained by contacting the custodian of record identified above.

Findings and Statement of Overriding Considerations under CEQA

Chapter 2. Findings On Environmental Impacts

CEQA Guidelines Section 15091 (Findings) states:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
- (b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.
- (c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subdivision (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.
- (d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

Findings and Statement of Overriding Considerations under CEQA

- (e) The public agency shall specify the location and custodian of the documents or other material which constitute the record of the proceedings upon which its decision is based.
- (f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

During the impact evaluation conducted for the project (2021 DEIR), the following resource areas were determined to have no impact or less-than-significant impacts from project implementation: Aesthetics; Energy; Forestry Resources; Hydrology, Hydraulics, and Flood Risk; Mineral Resources; Population and Housing; Public Services; and Recreation. Therefore, these resource areas are not discussed further.

During the impact evaluation conducted for the project (2021 DEIR), potentially significant impacts were identified for the following resource areas:

- Agricultural Resources and Land Use
- Air Quality
- Biological Resources – Fish and Aquatic Habitat
- Biological Resources – Wetlands and Other Waters
- Biological Resources – Vegetation
- Biological Resources – Wildlife
- Cultural and Tribal Cultural Resources
- Geology, Soils, and Paleontological Resource
- Greenhouse Gas Emissions and Climate Change
- Hazards and Hazardous Materials
- Noise and Vibration
- Transportation
- Utilities and Service Systems
- Water Quality
- Wildfires

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

During the impact evaluation conducted for the project (2021 DEIR), potentially significant and unavoidable impacts were identified for the following resource areas:

- Agricultural Resources and Land Use
- Air Quality
- Greenhouse Gas Emissions and Climate Change
- Noise

As defined in CEQA Guidelines Section 15355, a cumulative impact is an environmental impact resulting from the combination of the proposed project's impacts and impacts from other projects, as defined below per CEQA Guidelines Section 15130(b)(1). CEQA Guidelines Section 15130 requires the consideration of cumulative impacts within an EIR when the incremental effects of a project are cumulatively considerable.

During the impact evaluation (2021 DEIR), it was also determined that the project would result in a cumulatively considerable incremental contribution to a cumulatively significant impact on the following resources:

- Air Quality
- Agricultural Resources and Land Use
- Greenhouse Gas Emissions

Findings regarding potentially significant impacts requiring mitigation and potentially significant and unavoidable impacts are provided below. See Part II for findings regarding alternatives. The numbering of the impacts set out below follows the format of the 2021 DEIR. The numbering of tables embedded in mitigation measures also follows the 2021 DEIR.

Findings and Statement of Overriding Considerations under CEQA

2.1 Potentially Significant Impacts Reduced to Less Than Significant

2.1.1 Agricultural Resources and Land Use

Impact AG-1: Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to nonagricultural use, or cause a significant environmental impact due to a conflict with a land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

Discussion

Although the project footprint was designed to minimize impacts to agricultural lands, staging areas were sited on already disturbed lands, and access was limited to existing roads to the extent feasible, construction of Alternatives A through F would result in the permanent conversion of prime farmland to nonagricultural uses. This conversion would also conflict with the County land use designations because the majority of the project area is designated as valley floor agriculture lands on which the conversion to habitat resources is not permitted. Because the proposed conversion of prime farmland to nonagricultural use may constitute an irretrievable and permanent loss of the use of this land for agricultural purposes despite the potential project benefits to agricultural lands subjected to flooding, the 2021 DEIR concluded that impacts would be potentially significant. If determined by Tehama County to be required, implementation of the compensatory measures included in Mitigation Measure AG-1 would reduce these potential impacts to less than significant. Implementation of the measures included in Mitigation Measure GEO-2 to store and reuse excavated topsoil and make it available to agricultural land users in the project vicinity would enhance soil productivity and further reduce impacts.

Mitigation Measures

Mitigation Measure AG-1: If determined to be necessary, establish conservation easements for the loss of Prime Farmland.

If project-related benefits to agricultural lands are determined insufficient to compensate for the loss of prime farmland, agricultural conservation easements will be considered in consultation with Tehama County (refer to 2021 DEIR Section 4.3 for full text).

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

Mitigation Measure GEO-2: Store and reuse topsoil.

During construction, topsoil identified as good quality for revegetation efforts, agricultural practices, or other similar uses will be stockpiled. Revegetation of disturbed soil areas will be facilitated by salvaging and storing existing topsoil and reusing it in restoration efforts. Topsoil storage must be for as short a time as possible to prevent loss of seed and root viability, loss of organic matter, and degradation of the soil microbial community. Salvaged topsoil should be piled no higher than 2 feet and no wider than 3 feet, and piles should be windrowed to retain viability of the microorganisms. Topsoil not used for revegetation will be offered to agricultural land users in the project vicinity. Land users would be notified of its presence and encouraged to obtain it for agricultural reuse.

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measures AG-1 and GEO-2 would reduce Impact AG-1 to a less-than-significant level. Therefore, these mitigation measures have been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

2.1.2 Biological Resources – Fish and Aquatic Habitat

Impact FISH-1: Have a substantial adverse effect, either directly or through habitat modifications, on any fish species identified as a sensitive or special-status species in local or regional plans, policies, or regulations, or by NMFS, USFWS, or CDFW.

Discussion

Construction activities within and adjacent to Deer Creek cannot be timed to avoid all life stages of special-status fish species because of the year-round presence of at least one life stage. Construction activities that require in-channel work or ground disturbance immediately adjacent to Deer Creek have the potential to adversely affect special-status fish species through changes in water quality, direct harm, and the generation of noise and vibration. Because increases in turbidity and suspended sediment could potentially affect spawning habitat or feeding or holding behavior of special-status and resident fish species downstream of construction activities, and a

Findings and Statement of Overriding Considerations under CEQA

hazardous leak or spill could have adverse effects on all life stages of fish species and their habitat, the 2021 DEIR concluded that impacts would be potentially significant.

Implementation of the erosion and sediment control measures included in Mitigation Measure GEO-1, the protective measures for hazardous materials included in Mitigation Measure HAZ-1, and the dewatering permit requirements included in Mitigation Measure WQ-1 would ensure that water quality would not be substantially degraded and would reduce these potential impacts to a less-than-significant level.

Implementation of the avoidance work windows included in Mitigation Measure FISH-1 and the fish removal and protective measures for dewatering and fish rescue included in Mitigation Measure FISH-2 would reduce potential impacts from direct harm to a less-than-significant level.

In addition, implementation of the avoidance work windows in Mitigation Measure FISH-1 combined with the use of a vibratory pile driver, as required in Mitigation Measure FISH-3, would minimize noise impacts to a less-than-significant level.

Mitigation Measures

Mitigation Measure GEO-1: Acquire appropriate regulatory permits, prepare and implement a stormwater pollution prevention plan and associated best management practices for grading and erosion control.

Prior to the start of earth-moving activities, the project proponent will obtain from the State Water Resources Control Board (SWRCB) a National Pollutant Discharge Elimination System (NPDES) stormwater permit for general construction activity (Order 2009-0009-DWQ as amended by Order 2012-006-DWQ), including preparation and submittal of a notice of intent to discharge with the Central Valley Regional Water Quality Control Board (CVRWQCB). Construction and post-construction monitoring shall be conducted to ensure that all erosion-control efforts are performing and being performed as designed (refer to 2021 DEIR Section 4.10 for full text).

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

Mitigation Measure HAZ-1: Implement a spill prevention control and countermeasures plan to reduce the potential for environmental contamination during construction activities.

The contractor will prepare and implement a spill prevention control and countermeasures plan (SPCCP). The SPCCP and all material necessary for its implementation will be accessible on site prior to initiation of project construction and throughout the construction period. The SPCCP will include a plan for the emergency cleanup of any spill of fuel or other hazardous material. Employees and construction workers will be provided the necessary information from the SPCCP to prevent or reduce the discharge of pollutants from construction activities and to use the appropriate measures should a spill occur. In the event of a hazardous spill in Deer Creek, work will stop immediately and the California Department of Fish and Wildlife (CDFW), U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), CVRWQCB, and U.S. Army Corps of Engineers (USACE) will be notified within 24 hours (refer to 2021 DEIR Section 4.12 for full text).

Mitigation Measure WQ-1: Obtain appropriate discharge and dewatering permit and implementation provisions for dewatering.

Before discharging any dewatered effluent to surface water, a low-threat discharge and dewatering NPDES permit will be obtained, or an individual permit from the CVRWQCB will be obtained if the dewatering is not covered under the RWQCB's NPDES construction general permit. The dewatering permit includes extensive water quality monitoring to adhere to the strict effluent and receiving water quality criteria outlined in the permit (refer to 2021 DEIR Section 4.17 for full text).

Mitigation Measure FISH-1: Implement avoidance work windows.

All instream work shall be conducted between August 1 and September 30 to minimize impacts to migration of anadromous fish, pending discussion with CDFW. By scheduling activities when anadromous fish are least likely to be present, this work window avoids rearing and migration windows for Central Valley spring-run Chinook salmon, Central Valley steelhead, and fall-run and late-fall-run Chinook salmon. NMFS and CDFW approvals will be required for work instream work if it is to occur before July 1 or after September 30 (but no later than October 14).

Findings and Statement of Overriding Considerations under CEQA

Mitigation Measure FISH-2: Implement measures to minimize injury or mortality to fish species during dewatering and diversion activities.

- Work conducted within the channel and banks outside of the August 1 to September 30 instream work window must be isolated from flowing water and fish rescue will be required prior to the onset of dewatering.
- Immediately prior to implementation of any necessary diversion of the creek during construction (as well as maintaining flows in the creek upstream and downstream of the dewatered construction area), surveys shall be conducted for presence of sensitive fish species to ensure no sensitive species are present. A qualified biologist, in coordination with CDFW, will conduct surveys.
- The contractor, in consultation with the NMFS and CDFW, shall prepare a dewatering and fish rescue plan prior to the start of construction. Fish rescues, in conjunction with dewatering, shall be conducted by qualified fish biologists approved by the NMFS and CDFW. Methods may include herding, seining, or electrofishing. Best professional determination will decide which method(s) of rescue is best and where the relocation of captured fish, either upstream or downstream of the temporary diversion, is to occur. Biologists will first try to herd fish out of the fish exclusion area. If fish biologists determine that the use of electrofishing is necessary for the efficient and successful removal of fish, the NMFS electrofishing guidelines (National Marine Fisheries Service 2000) will be followed. NMFS and CDFW shall be contacted in the event sensitive fish species are encountered during the dewatering and rescue effort.
- All pumps used during dewatering for construction will be screened to meet CDFW and NMFS criteria (National Marine Fisheries Service 1997).
- All dewatering and rewatering activities will be conducted slowly to minimize disturbance to fish. A qualified fisheries biologist will be on site during these activities, and CDFW will be notified prior to these activities.

Mitigation Measure FISH-3: Construction activities requiring pile driving will be conducted with a vibratory pile driver.

Construction activities requiring pile driving will be conducted with a vibratory pile driver.

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measures GEO-1, HAZ-1, WQ-1, FISH-1, FISH-2, and FISH-3 would reduce Impact FISH-1 to a less-than-significant level. Therefore, these mitigation measures have been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

2.1.3 Biological Resources – Wetlands and Other Waters

Impact WETLAND-1: Have a substantial adverse effect on State- or federally protected wetlands or waters through direct removal, filling, hydrological interruption, or other means.

Discussion

All construction activities have the potential to adversely affect water quality in wetlands and other waters through the inadvertent introduction of sediment or pollutants into the water. Increases in turbidity or contamination would adversely affect water quality and would have a potentially significant impact on wetlands and other waters. Construction of the raised levees would require the widening of the base of the levees and construction of bank protection and levee setbacks, which has the potential to adversely affect adjacent riparian wetlands and seasonal wetlands through permanent removal or hydrologic interruption. Because increases in turbidity or contamination would adversely affect water quality and because hydrologic interruption or loss of wetlands could result from construction of bank protection and the levee setback, the 2021 DEIR concluded that these impacts would be potentially significant. Implementation of the protective measures and adherence to the regulatory requirements included in Mitigation Measures WETLAND-1, WETLAND-2, WQ-1, GEO-1, and HAZ-1 would reduce these potential impacts to a less-than-significant level.

Findings and Statement of Overriding Considerations under CEQA

Mitigation Measures**Mitigation Measure WETLAND-1: Implement avoidance and minimization measures for identified wetlands and other waters.**

- Project activities will avoid impacts to wetlands and other waters to the extent possible.
- High-visibility fencing will be installed in areas where equipment will be operating near any wetlands or other waters that are not to be disturbed.
- Construction crews will be informed about the importance of avoiding sensitive areas, including wetlands and other waters.

Mitigation Measure WETLAND-2: Compensate for the loss of state or federally protected wetlands.

Construction and placement of project features shall be limited to the smallest area necessary to meet the project purpose. Final determination of jurisdictional status and associated project impacts on such jurisdictional wetlands shall be decided by USACE and the SWRCB. If, as a result of a wetland delineation and jurisdictional determination, it is determined that the proposed project would impact jurisdictional wetlands, avoidance, minimization, and mitigation measures shall be implemented pursuant to USACE and SWRCB guidance to ensure that the project would result in no net-loss of jurisdictional wetlands.

Mitigation Measure WQ-1: Obtain appropriate discharge and dewatering permit and implementation provisions for dewatering.

Refer to Subsection 2.1.2, "Biological Resources – Fish and Aquatic Habitat" (Impact FISH-1) within this document for a summary of this mitigation measure (or 2021 DEIR Section 4.17 for full text).

Mitigation Measure GEO-1: Acquire appropriate regulatory permits, prepare and implement a stormwater pollution prevention plan and associated best management practices for grading and erosion control.

Refer to Subsection 2.1.2, "Biological Resources – Fish and Aquatic Habitat" (Impact FISH-1) within this document for a summary of this mitigation measure (or 2021 DEIR Section 4.10 for full text).

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

Mitigation Measure HAZ-1: Implement a spill prevention control and countermeasures plan to reduce the potential for environmental contamination during construction activities.

Refer to Subsection 2.1.2, "Biological Resources – Fish and Aquatic Habitat" (Impact FISH-1) within this document for a summary of this mitigation measure (or 2021 DEIR Section 4.12 for full text).

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measures WETLAND-1, WETLAND-2, WQ-1, GEO-1, and HAZ-1 would reduce Impact WETLAND-1 to a less-than-significant level. Therefore, these mitigation measures have been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

2.1.4 Biological Resources – Vegetation

Impact VEG-1: Have a substantial adverse effect, either directly or through habitat modification, on any plant species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or CDFW or USFWS regulations.

Discussion

Special-status plants could be indirectly affected by construction activities if habitat quality is degraded through the accidental release of fuels, oil, or contaminants; unintended erosion or sedimentation; or the accidental introduction of invasive plant species or noxious weeds not currently present. The 2021 DEIR concluded that these impacts, if they were to occur, would be potentially significant. Implementation of the preventative measures included in Mitigation Measure VEG-1, VEG-2, and VEG-3 and the water quality protection measures included in Mitigation Measures GEO-1 and HAZ-1 would reduce these potential impacts to a less-than-significant level.

Findings and Statement of Overriding Considerations under CEQA

Mitigation Measures

Mitigation Measure VEG-1: Conduct focused surveys for special-status plants and avoid impacts, where feasible.

To avoid adverse effects from setback levees on special-status plants, the following measures would be implemented before the start of ground-disturbing activities:

- Conduct preconstruction special-status plant surveys during the blooming periods. A qualified botanist will conduct surveys for hogwallow starfish and star-bracted monkeyflower, as well as the other special-status plant species with potential to occur in appropriate habitat within the construction footprint. Surveys will follow the most current applicable guidelines established by CDFW and will be conducted at the appropriate time of year when the target species is clearly identifiable. If no special-status plants are found during focused surveys, no further action would be required.
- If special-status plants are found, the special-status plant and occupied habitat in the project area will be marked for avoidance during construction activities. Marking will include a minimum habitat buffer for each occurrence of 25 feet. The construction contractor will avoid these areas where feasible. Temporary fencing will be installed to protect all occupied habitat located in levee setback construction areas that can be avoided.

Mitigation Measure VEG-2: If avoidance of special-status plant species is infeasible, develop and implement a compensatory mitigation plan.

If habitat occupied by special-status plants cannot be avoided during levee setback construction, an appropriate and feasible mitigation plan to compensate for direct loss of special-status plants will be developed and provided to CDFW for approval. The plan will detail appropriate compensatory measures determined through consultation with CDFW, methods for implementation, success criteria, monitoring and reporting protocols, and contingency measures to be implemented if the initial mitigation fails (refer to 2021 DEIR Section 4.7 for full text).

Mitigation Measure VEG-3: Prevent the introduction of invasive plant species.

The contractor shall implement the following best management practices, to the extent feasible, to prevent the introduction of invasive plant species:

- All heavy equipment shall be thoroughly cleaned prior to mobilization on site to remove any soil, weed seeds, and plant parts to reduce the importation and spread of invasive exotic plant species. Only certified weed-free straw shall be used for erosion control or other purposes to reduce the importation and spread of invasive exotic plant species.
- All revegetation materials (e.g., mulches, seed mixtures) shall be certified weed-free and come from locally adapted native plant materials, to the extent practicable.

Mitigation Measure GEO-1: Acquire appropriate regulatory permits, prepare and implement a stormwater pollution prevention plan and associated best management practices for grading and erosion control.

Refer to Subsection 2.1.2, "Biological Resources – Fish and Aquatic Habitat" (Impact FISH-1) within this document for a summary of this mitigation measure (or 2021 DEIR Section 4.10 for full text).

Mitigation Measure HAZ-1: Implement a spill prevention control and countermeasures plan to reduce the potential for environmental contamination during construction activities.

Refer to Subsection 2.1.2, "Biological Resources – Fish and Aquatic Habitat" (Impact FISH-1) within this document for a summary of this mitigation measure (or 2021 DEIR Section 4.12 for full text).

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measures VEG-1, VEG-2, VEG-3, GEO-1, and HAZ-1 would reduce Impact VEG-1 to a less-than-significant level. Therefore, these mitigation measures have been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

Findings and Statement of Overriding Considerations under CEQA

Impact VEG-2: Have a substantial adverse effect on any riparian habitat or other sensitive natural species or communities identified in the local or regional plans, policies, regulations or by the CDFW or USFWS through direct removal, filling, hydrological interruption, or other means.

Discussion

Under Alternatives A through E, levee setbacks and modifications have the potential to result in the additional temporary loss of approximately 28 acres of riparian woodland habitat. This temporary loss is not anticipated to have a substantial adverse effect because it would be offset by proposed floodplain plantings and the natural riparian recruitment, including vigorous resprouting of sandbar willow, that is anticipated to occur in response to the reconnection of Deer Creek to its floodplain. But, because it is not assured that plantings and natural recruitment would fully compensate for the riparian habitat loss that would occur, the 2021 DEIR concluded that impacts on riparian habitat under Alternatives A through E would be potentially significant. If required, the compensatory measures included in Mitigation Measure VEG-4 would reduce impacts to a less-than-significant level.

Construction of the new embankment and levee and installation of bank protection have the potential to result in the permanent loss of approximately 2.5 acres of riparian woodland. Although this amount is relatively small compared to the overall amount of similar adjacent habitat, the 2021 DEIR concluded that this loss, combined with the potential net loss of riparian woodland described above, would be potentially significant. The compensatory measures included in Mitigation Measure VEG-4 would reduce impacts to a less-than-significant level.

Mitigation Measures

Mitigation Measure VEG-4: If a net loss of riparian woodland habitat occurs, develop and implement a compensatory mitigation plan.

If necessary, a mitigation plan will be prepared to compensate for loss of riparian woodland to ensure no-net-loss of riparian functions and values. This mitigation plan will be developed and provided to the appropriate regulatory agencies for review and approval. The plan will detail appropriate compensation measures determined through consultation with CDFW,

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

methods for implementation, success criteria, monitoring and reporting protocols, and contingency measures to be implemented if the initial mitigation fails. The plan will be developed in consultation with and approved by the appropriate regulatory agencies before construction activities begin in areas containing riparian woodland habitat.

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measure VEG-4 would reduce Impact VEG-2 to a less-than-significant level. Therefore, these mitigation measures have been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

2.1.5 Biological Resources – Wildlife

Impact WILDLIFE-1: Have a substantial adverse effect, either directly or through habitat modification, on any wildlife species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or CDFW and USFWS regulations.

Discussion

Construction of the proposed project would have the potential to adversely affect special-status wildlife species that occur or have the potential to occur in the project area. Construction activities have the potential to cause direct harm to individuals of these species and temporarily degrade wildlife habitat through erosion, sedimentation, noise, dust, accidental spills, or the accidental introduction of invasive plant species. Excavation, filling, and removing or grading soils for the setback levees could directly modify or destroy nesting, breeding, or foraging areas that are present in the project area. The 2021 DEIR concluded that if any of these impacts were to occur, they would be potentially significant. Implementation of the species-specific mitigation measures described below for special-status wildlife species, in combination with Mitigation Measures WILDLIFE-1, GEO-1, HAZ-1, and VEG-3, would reduce these potential impacts to a less-than-significant level.

Levee construction has the potential to result in the permanent loss of approximately 1.8 acres of grassland comprised of non-irrigated pasture.

Findings and Statement of Overriding Considerations under CEQA

This construction activity has the potential to cause direct harm to individual western pond turtles and burrowing owls, as well as destroy turtle nests and owl burrows and disturb grasshopper sparrows during the nesting season if they are present. Levee setbacks and floodplain lowering have the potential to result in the permanent loss of approximately 225 acres of grassland comprised of irrigated pasture, which may also provide suitable habitat for these species, so construction activities in this habitat type have the potential to result in the same impacts as those described for non-irrigated pasture. The 2021 DEIR concluded that if any of these impacts were to occur, they would be potentially significant. Implementation of the western pond turtle and burrowing owl protection measures included in Mitigation Measure WILDLIFE-2 and Mitigation Measure WILDLIFE-3, respectively, as well as the migratory bird protection measures included in Mitigation Measure WILDLIFE-4, would reduce these impacts to a less-than-significant level.

Construction activities that could disturb or remove freshwater marsh or blackberry brambles have the potential to disturb nesting tri-colored blackbirds. The 2021 DEIR concluded that if these impacts were to occur during the nesting season, impacts would be potentially significant. Implementation of the tri-colored blackbird protection measures included in Mitigation Measure WILDLIFE-5 would reduce these potential impacts to a less-than-significant level.

Tree removal that would occur in riparian woodland habitat along Deer Creek during construction activities has the potential to adversely affect nesting raptors including Swainson's hawk and white-tailed kite, as well as nesting great egrets and great blue herons and other nesting birds including the oak titmouse, yellow-billed magpie, Nuttall's woodpecker, and yellow-breasted chat. It is possible that trees along China Slough also provide suitable habitat for some of these species. The 2021 DEIR concluded that if these species were disturbed during nesting or their nests were destroyed, impacts would be potentially significant. Implementation of the nesting raptor and nesting migratory bird protection measures included in Mitigation Measure WILDLIFE-6 and Mitigation Measures WILDLIFE-4, respectively, would reduce these potential impacts to a less-than-significant level.

Tree removal also has the potential to adversely affect roosting bats. The 2021 DEIR concluded that if tree removal were to result in the harm or mortality of the pallid bat, western red bat, or long-eared myotis, impacts

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

would be potentially significant. Implementation of the protective measures during removal of trees that provide suitable bat roosting habitat included in Mitigation Measure WILDLIFE-7 would reduce these potential impacts to a less-than-significant level.

The deconstruction of Red Bridge has the potential to adversely affect the pallid bat or long-eared myotis if these species use the bridge for roosting habitat. The 2021 DEIR concluded that if the bridge is used for roosting, construction activities during the maternity season would have a potentially significant impact on these species. Implementation of the bat protection measures included in Mitigation Measure WILDLIFE-8 would reduce these impacts to a less-than-significant level, and the newly constructed Red Bridge has the potential to provide roosting habitat for these species.

Construction activities that would occur within the vicinity of elderberry shrubs have the potential to degrade habitat quality, directly harm the valley elderberry longhorn beetle (VELB), or result in the loss or relocation of the shrubs. The 2021 DEIR concluded that if avoidance is not feasible, implementation of the elderberry shrub protection measures included in Mitigation Measure WILDLIFE-9 would reduce potential impacts to a less-than-significant level.

Mitigation Measures

Mitigation Measure WILDLIFE-1: Implement a worker environmental awareness program.

A project-specific worker environmental awareness program for construction personnel shall be conducted by a qualified biologist approved by USFWS and CDFW before commencement of construction activities and as appropriate when new personnel begin work on the project (refer to 2021 DEIR Section 4.8 for full text).

Mitigation Measure WILDLIFE-2: Implement protection measures for the western pond turtle.

During construction, the project area shall be checked daily by a trained construction monitor prior to work commencing, including underneath vehicles and equipment that will be used. If turtles are found, they will be moved by a qualified and permitted biologist to an area of safety out of harm's way.

Findings and Statement of Overriding Considerations under CEQA

If a western pond turtle is observed in the project area during construction activities, the contractor shall temporarily halt construction until it is determined that the turtle will not be harmed or until the turtle has moved to a safe location outside of the construction limits. If construction is to occur during the nesting season (late June–July), a pre-construction survey for turtle nest sites shall be conducted by a qualified biologist in areas that will be disturbed within 100 feet of water bodies.

If any turtles or turtle nests are found, a qualified and permitted biologist shall flag the site and determine whether construction activities can avoid affecting the nest. If the nest cannot be avoided, in consultation with CDFW, a no-disturbance buffer zone may be established around the nest until the young have left the nest. If weather conditions prevent implementation of construction beyond two days after completion of turtle surveys, resurvey for this species shall be completed.

Mitigation Measure WILDLIFE-3: Implement protective measures for nesting raptors.

Any tree removal, vegetation clearing, or the onset of potentially disturbing construction activities shall occur between September 1 and January 31 (outside of the nesting season for raptors with potential to occur within, or in the vicinity of, the project area).

If tree removal, vegetation clearing, or the onset of potentially disturbing construction activities must occur during the nesting season (February 1 through August 31), a raptor nesting survey of the construction area and adjacent suitable habitat shall be conducted by a qualified biologist no more than seven days prior to the initiation of the onset of these activities or as appropriate survey protocols require.

If active raptor nests are found, tree removal, vegetation clearing and the onset of potentially disturbing construction activities shall be suspended until a qualified biologist, in consultation with CDFW or USFWS can establish an appropriate protective buffer area to minimize impacts to the nesting raptors. The width of the buffer zone shall be determined by a qualified biologist in coordination with CDFW. This determination, made on a case-by-case basis, will consider the distance of the nest site from construction activities, the line of sight from the nest site to construction activities, the existing level of disturbance, and other factors established with CDFW.

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

No construction activities shall commence within the buffer area until the qualified biologist determines that the young birds have fledged or the nest is no longer active.

A qualified biologist shall monitor active nests within 500 feet (or the width of the buffer zone) of construction activities. The first monitoring event shall coincide with the initial implementation of construction activities and monitoring shall continue continuously for the duration of construction activities, or any other activities that may impact nesting success, until the young have fledged. If the biologist determines that construction activities are causing the birds to exhibit distress or abnormal nesting behavior or reproductive failure (nest abandonment and loss of eggs or young) is possible, the biologist shall halt work immediately and notify CDFW. Measures to avoid nest failure shall be implemented in coordination with CDFW and may include halting some or all construction activities until the young have fledged.

Construction activities shall occur continuously (excluding weekends) until the end of the nesting season to discourage raptors from initiating nesting. If construction activities cease beyond seven consecutive days (including weekends), all construction activities shall cease until CDFW can be consulted to determine if a subsequent raptor nesting survey must be performed. Active or inactive nests are not to be disturbed or removed as a result of construction activities without CDFW consultation per California Fish and Game Code (CFG) Section 3503.5.

Mitigation Measure WILDLIFE-4: Habitat Protection – Nesting migratory birds.

Any tree removal, vegetation clearing, or the onset of potentially disturbing construction activities shall occur between August 1 and March 1 (outside of the nesting season for grasshopper sparrow, yellow-breasted chat, loggerhead shrike, yellow warbler, great blue heron, great egret, and other nesting migratory birds). If tree removal, vegetation clearing, or the onset of potentially disturbing construction activities must occur during the nesting season, a nesting survey of the construction area and adjacent suitable habitat shall be conducted by a qualified biologist no more than seven days prior to the initiation of the onset of these activities. If active bird nests are found to be present, tree removal, vegetation clearing, and the onset of potentially disturbing construction activities shall be suspended until a

Findings and Statement of Overriding Considerations under CEQA

qualified biologist, in consultation with CDFW, can establish an appropriate protective buffer area to minimize impacts to the nesting birds. No construction activities shall commence within the buffer area until the qualified biologist determines that the young birds have fledged or the nest is no longer active. Construction activities shall occur continuously (not including weekends) until the end of the nesting season to discourage avian species from initiating nesting. If construction activities cease beyond seven consecutive days (including weekends), all construction activities shall cease until CDFW can be consulted to determine if a subsequent nesting bird survey must be performed. Active nests are not to be disturbed or removed as a result of construction activities per CFGC Section 3503.

Mitigation Measure WILDLIFE-5: Tricolored blackbird nesting.

To avoid or minimize impacts to nesting tricolored blackbirds, prior to construction, the following measures shall be implemented:

- If construction is to commence during the nesting season (February 1 through August 31), two pre-construction surveys (the first no more than 14 days prior to, and the second within 48 hours of initial ground disturbance) shall be performed by a qualified biologist.
- If ground disturbance lapses beyond 14 days during the nesting season, the surveys shall be repeated before construction activities resume. Surveys shall include the extent of ground disturbance and the surrounding 250 feet.
- If an active nesting colony is found within the survey area, the colony shall be avoided by a buffer of at least 250 feet. The buffer shall remain in place until a qualified biologist confirms the colony is no longer active and has dispersed.

Mitigation Measure WILDLIFE-6: Habitat Protection – Burrowing owl.

Within seven calendar days prior to the onset of potentially disturbing construction activities, a burrowing owl survey of the construction area and adjacent suitable habitat shall be conducted by a qualified biologist. If active burrows are found, visible markers will be placed near burrows to ensure that construction equipment or vehicles do not collapse burrows. The onset of potentially disturbing construction activities shall be suspended until a qualified biologist, in consultation with CDFW, can establish an appropriate protective buffer area to minimize impacts to the burrow. The width of the

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

buffer shall be established in consultation with CDFW and will take into account time of year and level of disturbance in proximity to the burrow site. Avoid disturbing occupied burrows during the nesting period, from February 1 through August 31.

Mitigation Measure WILDIFE-7: Implement protective measures during removal of trees that provide suitable bat roosting habitat.

All removal of trees that provide suitable bat roosting (such as trees with deep bark crevices, snags, or holes) shall be conducted between August 31 and October 30, or earlier than October 30 if evening temperatures fall below 45 °F or more than a half inch of rainfall occurs within 24 hours. These dates correspond to the time period when bats would not be caring for non-volant young and have not yet entered torpor. A qualified biologist shall monitor removal or trimming of trees that provide suitable bat roosting habitat. Tree removal and trimming shall occur over two consecutive days. On the first day in the afternoon, limbs and branches shall be removed using chainsaws only. Limbs with cavities, crevices, or deep bark fissures shall be avoided, and only branches or limbs without those features shall be removed. On the second day, the entire tree shall be removed. Prior to tree removal and trimming, each tree shall be shaken gently and several minutes shall pass before felling trees or limbs to allow bats time to arouse and leave the tree. The biologist shall search downed vegetation for dead or injured bat species and report any dead or injured special-status bat species to CDFW.

Mitigation Measure WILDLIFE-8: Implement bat protection measures during construction activities under or within 100 feet of Red Bridge.

Construction activities underneath or within 100 feet of Red Bridge shall not occur from April 15 through August 31 to avoid impacts to roosting bats during the bat maternity season (non-volant period for young) or after October 30 (or earlier than October 30 if evening temperatures fall below 45 °F or more than a half inch of rainfall occurs within 24 hours) to avoid impacts to hibernating bats. If construction activities must be conducted within 100 feet of Red Bridge during the maternity season, a qualified biologist shall conduct preconstruction surveys for active maternity roosts within 48 hours prior to the start of proposed construction activities. If there is a lapse in construction activities of two weeks or greater, the area shall be resurveyed within 48 hours prior to recommencement of work. If a bat maternity roost is located, appropriate buffers around the roost sites shall be

Findings and Statement of Overriding Considerations under CEQA

determined in consultation with CDFW and implemented to avoid abandonment of the roost. The size of the buffer shall depend on the species, roost location, and specific construction activities to be performed in the vicinity. No project activity shall commence within the buffer areas until the end of the pupping season (which typically ends August 31) or until a qualified biologist confirms the maternity roost is no longer active.

Mitigation Measure WILDLIFE-9: Implement protection measures for the valley elderberry longhorn beetle.

The VELB protection measures shall comply with the current USFWS *Framework for Assessing Impacts to the Valley Elderberry Longhorn Beetle (Desmocerus californicus dimorphus)* (United States Fish and Wildlife Service 2017). The following protection measures shall be implemented to protect the VELB and its host plant, the elderberry shrub, if elderberry shrubs occur on or within 165 feet of the project area:

- Prior to construction, all elderberry shrubs to be avoided within 150 feet of any project activity will be clearly flagged, marked, and maintained throughout the construction period. All elderberry shrubs to be avoided will be marked with high-visibility orange fencing, and an avoidance area shall be established at least 20 feet from the elderberry shrub's drip-line.
- As feasible, all project-related activities that could occur within 165 feet of an elderberry shrub shall be conducted outside of the flight season of the VELB (March–July).
- Construction personnel shall ensure that dust control measures (e.g., watering) are implemented in the vicinity of any elderberry shrub within 100 feet of construction activities. To avoid affecting the VELB, dirt roads within 100 feet of elderberry shrubs shall be watered at least twice each day when being used by gravel trucks and other project-related vehicles during dry periods.

Mitigation Measure GEO-1: Acquire appropriate regulatory permits, prepare and implement a stormwater pollution prevention plan and associated best management practices for grading and erosion control.

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

Refer to Subsection 2.1.2, "Biological Resources – Fish and Aquatic Habitat" (Impact FISH-1) within this document for a summary of this mitigation measure (or 2021 DEIR Section 4.10 for full text).

Mitigation Measure HAZ-1: Implement a spill prevention control and countermeasures plan to reduce the potential for environmental contamination during construction activities.

Refer to Subsection 2.1.2, "Biological Resources – Fish and Aquatic Habitat" (Impact FISH-1) within this document for a summary of this mitigation measure (or 2021 DEIR Section 4.12 for full text).

Mitigation Measure VEG-3: Prevent the introduction of invasive plant species.

Refer to Subsection 2.1.4, "Biological Resources – Vegetation" (Impact VEG-1) within this document for the full text of this mitigation measure (or 2021 DEIR Section 4.7).

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measures WILDLIFE-1, WILDLIFE-2, WILDLIFE-3, WILDLIFE-4, WILDLIFE-5, WILDLIFE-6, WILDLIFE-7, WILDLIFE-8, WILDLIFE-9, GEO-1, HAZ-1, and VEG-3 would reduce Impact WILDLIFE-1 to a less-than-significant level. Therefore, these mitigation measures have been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

2.1.6 Cultural and Tribal Cultural Resources

Impact CR-1: Cause a substantial adverse change in the significance of a historical or archaeological resource as defined in Section 15064.5, or tribal cultural resources as defined in Public Resources Code 21074.

Discussion

The project area levees have not been recorded or evaluated for National Register of Historic Places (NRHP) or California Register of Historic Resources (CRHR) eligibility. The 2021 DEIR concluded that if they were determined to

Findings and Statement of Overriding Considerations under CEQA

be eligible, proposed construction activities would alter or remove levees, which could adversely change their historical significance, resulting in a potentially significant impact. Implementation of the treatment plan to address affected resources identified as eligible for the NRHP or CRHR described in Mitigation Measure CR-1 would reduce this potential impact to a less-than-significant level.

In addition to these known historical resources, the presence of Peter Lassen's Rancho Bosquejo within the project area indicates a very high probability of unrecorded early historic-era archaeological resources, particularly along Deer Creek downstream from the Stanford-Vina Ranch Irrigation Company (SVRIC) Dam. This potential has been substantiated by the work of Freeman (2015) and his associates who investigated and recorded these resources, many of which are directly adjacent to or intersect Deer Creek. The identified resources include water works, adobes, artifact scatters, and a cemetery. The 2021 DEIR concluded that should any unknown historic-era archaeological resources be disturbed or damaged by proposed construction activities, impacts would be potentially significant. Implementation of the procedures for inadvertent discovery of archaeological resources included in Mitigation Measure CR-2 would reduce this potential impact to a less-than-significant level.

Four archaeological resources have been recorded in or immediately adjacent to the project area. Three of the sites are of Native American origin or contain a Native American component and may be considered tribal cultural resources. Because California's indigenous population regularly settled near or travelled along viable watercourses, such as Deer Creek, and exploited resources available in the creeks or Sacramento River or their respective riparian corridors, it can be expected that additional Native American sites that may be considered tribal cultural resources are present within the project area. These sites may include village sites, resource specific activity areas, or trails (Horizon Water & Environment 2019). Construction-related activities associated with all project alternatives would require substantial ground-disturbance, including excavation, soil removal, trenching, grading, construction of a new setback levee, and use of staging areas. These earth-moving activities could result in damage to or destruction of known and undiscovered prehistoric-period archaeological sites and tribal cultural resources if present in the construction area. The 2021 DEIR concluded that should an archaeological or tribal cultural resource be damaged or destroyed

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

during these activities, the significance of the resources could be adversely affected, and a significant impact would occur. Implementation of the cultural resource awareness training included in Mitigation Measure CR-2, the procedures for inadvertent discovery of archaeological resources included in Mitigation Measure CR-3, and the evaluation and protection measures included in Mitigation Measure CR-4 would reduce this potential impact to a less-than-significant level.

Mitigation Measures**Mitigation Measure CR-1: Prepare a treatment plan and perform treatment to address the affected resources identified as Significant and Eligible for the NRHP or CRHR.**

The project proponent will prepare a treatment plan that provides measures for the management of identified historic properties and historical resources which cannot be avoided during project-related ground disturbances or other construction activities. The plan will establish a research design, methods, and guidelines for evaluations of unevaluated resources for potential listing on the NRHP or CRHR, and for mitigation of project-related significant impacts to historic properties and historical resources located within the project area. The treatment plan will also describe a process of consultation with appropriate State and federal agencies. Preservation in place, through methods such as redesign of relevant facilities to avoid destruction or damage to eligible resources, capping resources with fill, or deeding resources into conservation easements, shall be the preferred method of mitigation where feasible. If these options are not feasible, the measures that are developed in the treatment plan will be followed.

Mitigation Measure CR-2: Conduct cultural resource awareness and sensitivity training.

A pre-construction training session will be held for all construction personnel before the beginning of each construction phase or period. The training sessions will be conducted in person in the field. Participants will sign a form acknowledging that they have received the training and agree to keep resource locations confidential and to stop work within 100 feet of any unanticipated discovery. Topics to be addressed in the training sessions will include regulations protecting cultural resources, including tribal cultural resources (TCRs); basic identification of archaeological resources and potential TCRs; and proper discovery protocols. Only personnel who have

Findings and Statement of Overriding Considerations under CEQA

received cultural resource awareness and sensitivity training will be allowed to enter areas potentially containing traditional cultural properties (TCPs), TCRs, or prehistoric archaeological resources. Written materials will be provided to trained personnel, as appropriate.

Mitigation Measure CR-3: Implement procedures for inadvertent discovery of archaeological resources and implement an inadvertent discovery plan.

If an inadvertent discovery of archaeological cultural materials (e.g., unusual amounts of shell, animal bone, bottle glass, ceramics, building remains) is made during project-related construction activities, work must be halted within 100 feet of the find until an archaeologist who meets U.S. Secretary of Interior's Professional Qualification Standards for Archaeology evaluates the find. If the discovered materials are potential tribal cultural resources affiliated Native American tribes will be notified and provided an opportunity to participate in the evaluation of the find. Work may continue on other parts of the proposed project while evaluation and, if necessary, mitigation, take place (CEQA Guidelines Section 15064.5 [f]). Should significant archaeological resources be found, the resources shall be treated in compliance with Public Resources Code (PRC) Section 21083.2. If the project can be modified to accommodate avoidance, preservation of the site is the preferred alternative. Data recovery of the damaged portion of the site also shall be performed pursuant to PRC Section 20183.2(d).

Mitigation Measure CR-4: In the event that tribal cultural resources or traditional cultural properties are discovered during construction, implement procedures to evaluate and properly treat them.

Should potential TCRs or TCPs be identified in the project area during construction, each identified TCR or TCP will be evaluated for CRHR and NRHP eligibility through application of established eligibility criteria (California Code of Regulations [CCR] 15064.636 and Code of Federal Regulations [CFR] Part 63, respectively), in consultation with interested Native American tribes. If a TCP is determined to be eligible for listing in the NRHP, then the procedures for determination of effect and, if adverse, treatment of the resource to resolve adverse effect will be conducted in accordance with the procedures required for compliance with Section 106 of the National Historic Preservation Act (36 CFR Parts 800.5–800.6).

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measures CR-1, CR-2, CR-3, and CR-4 would reduce Impact CR-1 to a less-than-significant level. Therefore, these mitigation measures have been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

Impact CR-2: Disturbance of human remains, including outside of formal cemeteries.***Discussion***

Project-related activities associated with the construction of all project alternatives would require substantial ground disturbance, including excavation, soil removal, trenching, grading, and construction of a new setback levee. The 2021 DEIR concluded that should unknown human remains be disturbed during these activities, a significant impact would occur. Implementation of the procedures for the inadvertent discovery of human remains included in Mitigation Measures CR-5 would reduce the impact to human remains to a less-than-significant level.

Mitigation Measures**Mitigation Measure CR-5: Implement procedures for the inadvertent discovery of human remains.**

In accordance with the provisions of California Health and Safety Code Sections 7050.5–7055, if human remains are uncovered during ground-disturbing activities, the project proponent or designated representative will immediately halt potentially damaging excavation within 100 feet of the burial and notify the Tehama County coroner to determine the nature of the remains. If the coroner determines that the remains are those of a Native American, the coroner must contact the California Native American Heritage Commission (NAHC) by phone within 24 hours of making that determination. The professionally qualified archaeologist shall record the site, or the location of re-burial, with the NAHC. Work may recommence after the human remains have been investigated and recommendations have been made for the appropriate treatment and disposition of the remains.

Findings and Statement of Overriding Considerations under CEQA

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measure CR-5 would reduce Impact CR-2 to a less-than-significant level. Therefore, this mitigation measure has been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

2.1.7 Geology, Soils, and Paleontological Resources

Impact GEO-2: Result in substantial soil erosion or the loss of topsoil. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site lateral spreading, subsidence, liquefaction, or collapse.

Discussion

The proposed project would involve earth-moving activities, particularly construction of the levee setbacks, new levees, and new embankments; floodplain lowering; road raising; channel excavation in China Slough; and realignment and expansion of Red Bridge would all involve substantial soil movement. A portion of this soil would be topsoil from existing farmland. The 2021 DEIR concluded that should this topsoil be lost as a result of construction, a significant impact would occur. But this topsoil would be reused to the extent possible and proper best management practices to prevent soil erosion would be implemented to ensure this topsoil is not washed into Deer Creek. Implementation of the erosion control measures in Mitigation Measure GEO-1 and the reuse of excavated topsoil as outlined in Mitigation Measure GEO-2 would reduce impacts to a less-than-significant level.

Mitigation Measures

Mitigation Measure GEO-1: Acquire appropriate regulatory permits, prepare and implement a stormwater pollution prevention plan and associated best management practices for grading and erosion control.

Refer to Subsection 2.1.2, "Biological Resources – Fish and Aquatic Habitat" (Impact FISH-1) within this document for a summary of this mitigation measure (or 2021 DEIR Section 4.10 for full text).

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

Mitigation Measure GEO-2: Store and reuse topsoil.

Refer to Subsection 2.1.1, "Agricultural Resources and Land Use" (Impact AG-1) within this document for the full text of this mitigation measure (or 2021 DEIR Section 4.10).

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measures GEO-1 and GEO-2 would reduce Impact GEO-2 to a less-than-significant level. Therefore, these mitigation measures have been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

Impact GEO-3: Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.***Discussion***

The alluvium and basin deposits within the project area are of Holocene age. By definition, to be considered a unique paleontological resource, a fossil must be more than 11,700 years old. Holocene deposits contain only the remains of extant, modern taxa (if any resources are present), which are not considered "unique" paleontological resources. So, these formations are considered to be of low paleontological sensitivity. But, the discovery of numerous vertebrate fossil remains in sediments referable to the Riverbank Formation in Tehama County, as well as other areas throughout the Central Valley, indicates that this formation is paleontologically sensitive. The Riverbank Formation underlies the Holocene-age alluvium and basin deposits throughout the project area. So, depending on the depth of excavation for floodplain lowering or other excavation construction activities, this paleontologically sensitive rock formation could be encountered. Because the same rock formations are present within the construction footprint for all of the project alternatives, there is a potential to encounter and possibly damage or destroy unique paleontological resources during construction-related excavation. Alternative F is the only alternative that does not involve excavation for floodplain lowering. For this reason, the 2021 DEIR concluded that construction of Alternatives A through E would have a potentially significant impact on paleontological resources. Implementation of the

Findings and Statement of Overriding Considerations under CEQA

protective measures included in Mitigation Measure GEO-3 would reduce impacts to a less-than-significant level.

Because maintenance activities, including potential bank and levee repairs, may result in the excavation of a unique paleontological resource or site, or unique geologic feature, the 2021 DEIR concluded that maintenance impacts would be potentially significant. Implementation of the topsoil protective measures included in Mitigation Measure GEO-2 would reduce these potential impacts to a less-than-significant level.

Mitigation Measures

Mitigation Measure GEO-2: Store and reuse topsoil.

Refer to Subsection 2.1.1, "Agricultural Resources and Land Use" (Impact AG-1) within this document for the full text of this mitigation measure (or 2021 DEIR Section 4.10).

Mitigation Measure GEO-3: Conduct construction personnel education, stop work if paleontological resources are discovered, assess the significance of the find, and prepare and implement a recovery plan, as required.

To minimize the potential for destruction of or damage to potentially unique, scientifically important paleontological resources during earth-moving activities, DWR will implement the measures described below.

- Before the start of construction activities, construction personnel involved with earth-moving activities (including the site superintendent) will be informed of the possibility of encountering fossils, the appearance and types of fossils likely to be seen during construction activities, and proper notification procedures should fossils be encountered. This worker training may either be prepared and presented by an experienced field archaeologist at the same time as construction worker education on cultural resources or prepared and presented separately by a qualified paleontologist.
- If paleontological resources are discovered during earth-moving activities, the construction crew will notify DWR and will immediately cease work in the vicinity of the find. DWR will retain a qualified paleontologist to evaluate the resource and prepare a recovery plan in accordance with Society of Vertebrate Paleontology guidelines (Society

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

of Vertebrate Paleontology 1996). The recovery plan may include a field survey, construction monitoring, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations in the recovery plan that are determined by the appointed paleontologist and the State historic preservation officer to be necessary and feasible will be implemented before construction activities can resume at the site where the paleontological resources were discovered.

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measures GEO-2 and GEO-3 would reduce Impact GEO-3 to a less-than-significant level. Therefore, these mitigation measures have been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

2.1.8 Hazards and Hazardous Materials

Impact HAZ-1: Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

Impact HAZ-2: Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident condition involving the release of hazardous materials into the environment.

Impact HAZ-3: Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school.

Discussion

Construction equipment such as excavators, bulldozers, drilling rigs, or bobcats would be used during project implementation. Construction activities would use minor amounts of hazardous materials, such as fuels (gasoline and diesel), oils and lubricants, and cleaners (which could include solvents and corrosives in addition to soaps and detergents) commonly used in construction projects. Transport of these hazardous materials would be

Findings and Statement of Overriding Considerations under CEQA

minimized by importing construction equipment at the start of construction and leaving it on site until completion, and by keeping a fuel truck on site at a designated staging area(s) for refueling, as appropriate. The routine use of these materials during construction could, however, result in an accidental spill of hazardous materials. The 2021 DEIR concluded that if an accidental spill occurred during construction, the impact would be potentially significant. Implementation of the spill prevention control and countermeasures plan included in Mitigation Measure HAZ-1 would reduce this potential impact to a less-than-significant level.

Vegetation removal and channel grading along China Slough would require the use of construction equipment within 0.25 mile of Vina Elementary School. These activities would be short-term but could result in the accidental release of fuel or other hazardous materials. The 2021 DEIR concluded that if this release were to occur, impacts would be potentially significant. Implementation of the spill prevention control and countermeasures plan included in Mitigation Measure HAZ-1 would reduce this potential impact to a less-than-significant level.

Mitigation Measures

Mitigation Measure HAZ-1: Prepare and implement a spill prevention control and countermeasures plan to reduce the potential for environmental contamination during construction activities.

Refer to Subsection 2.1.2, "Biological Resources – Fish and Aquatic Habitat" (Impact FISH-1) within this document for a summary of this mitigation measure (or 2021 DEIR Section 4.12 for full text).

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measure HAZ-1 would reduce Impact HAZ-1, HAZ-2, and HAZ-3 to a less-than-significant level. Therefore, this mitigation measure has been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

Impact HAZ-5: Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.***Discussion***

The Tehama County Flood Control and Water Conservation District has designated evacuation routes in the project area in the event of floods along Deer Creek (refer to Figure 4.12-1 in the 2021 DEIR) (Tehama County Flood Control and Water Conservation District 2021). These routes are designated for flood emergencies and proposed project construction would not occur during the rainy season, but it is possible that construction traffic associated with the proposed project could cause slowdowns along major roadways in the project vicinity and physically interfere with evacuations for other types of emergencies, such as wildfires. The 2021 DEIR concluded that if this occurred, impacts would be potentially significant. Implementation of the construction traffic control plan (CTCP) included in Mitigation Measure TR-1 would reduce this potential impact to a less-than-significant level.

Mitigation Measures**Mitigation Measure TR-1: Implement a construction traffic control plan.**

The contractor shall prepare and implement a CTCP that includes appropriate manual controls to facilitate truck access on and off of State Route (SR) 99. A Caltrans encroachment permit would be required to implement a CTCP on the state highway. The CTCP shall be prepared to ensure that traffic flow and daily activities would not be substantially disrupted by an increase in construction traffic. Under this plan, construction signs and flaggers would be employed, when necessary, to inform commuters of large trucks and equipment in the area. Signs, equipment, and traffic control measures shall conform to the provisions in the Caltrans Traffic Manual (refer to 2021 DEIR Section 4.15 for full text).

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measure TR-1 would reduce Impact HAZ-5 to a less-than-significant level. Therefore, this mitigation measure has been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

Findings and Statement of Overriding Considerations under CEQA

Impact HAZ-6: Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires.

Discussion

Construction activities would occur outside of the rainy season and would involve the use of fuels and other potentially flammable materials. Although designated staging areas access roads would be used, the potential for accidental ignition of a wildfire would exist during construction activities. The 2021 DEIR concluded that if a project-related wildfire occurred, impacts would be potentially significant. Implementation of the fire protection and prevention plan included in Mitigation measure HAZ-2 would reduce this potential impact to a less-than-significant level.

Mitigation Measures

Mitigation Measure HAZ-2: Develop and implement a fire protection and prevention plan.

The project contractor shall be required to develop a fire protection and prevention plan. The plan shall include the following requirements: fire safety training for all construction employees; proper maintenance (e.g., working spark arresters) and operation (e.g., restrictions on the use of gasoline-powered tools around flammable vegetation) of construction equipment; mowing of the parking areas to keep vegetation from coming in contact with the hot undercarriage of employee and construction vehicles; fire suppression tools (e.g., shovels, fire extinguishers) on site for each construction vehicle; and proper disposal of flammable vegetative waste material during dry weather periods.

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measure HAZ-2 would reduce Impact HAZ-6 to a less-than-significant level. Therefore, this mitigation measure has been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

2.1.9 Transportation

Impact TR-1: Conflict with program, plan, ordinance or policy addressing the circulation system, including transit and roadway facilities.

Discussion

The addition of project-related traffic would have the potential to increase delays at the SR 99 at Vina Road (east) intersection and would cause the level of service (LOS) to deteriorate from LOS C to LOS D in the a.m. peak hour and to LOS F in the p.m. peak hour. The 2021 DEIR concluded that the effects of the proposed project on intersection LOS would be inconsistent with adopted policies and would be potentially significant. Although DWR is not subject to these adopted policies, a construction traffic control plan would be prepared and implemented as described in Mitigation Measure TR-1 to minimize impacts to LOS during the construction period to less-than-significant levels.

Mitigation Measures

Mitigation Measure TR-1: Prepare and implement a construction traffic control plan.

Refer to Subsection 2.1.8, "Hazards and Hazardous Materials" (Impact HAZ-5) within this document for a summary of this mitigation measure (or 2021 DEIR Section 4.15 for full text).

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measure TR-1 would reduce Impact TR-1 to a less-than-significant level. Therefore, this mitigation measure has been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

Findings and Statement of Overriding Considerations under CEQA

Impact TR-3: Substantially increase hazards due to a geometric design feature or incompatible uses.

Discussion

Although construction traffic would be a compatible use of SR 99, the existing sight distance from various locations onto SR 99 does not appear to satisfy corner sight distance requirements for heavy trucks. Uncontrolled truck access onto SR 99, therefore, could result in conflicts between construction vehicles and through traffic on SR 99, resulting in an increase in hazardous conditions that the 2021 DEIR concluded would be potentially significant. Implementation of the sight distance safety measures that would be included in the CTCP (Mitigation Measure TR-1) would minimize this potential hazard to less-than-significant levels.

Although the Traffic Impact Analysis (2021 DEIR Appendix C) identified intersections where turning radiuses may not be adequate for large construction vehicles and equipment, additional on-site review of the haul route access points resulted in the finding that these roads are currently used by large agricultural vehicles and equipment that do not encounter turning issues and that project area roads would be able to accommodate truck turning requirements such that no hazards would be created. Implementation of the traffic control measure included in Mitigation Measure TR-1 would further reduce the risk of hazardous conditions at these intersections.

The proposed construction access roads were engineered to sustain the number and frequency of construction vehicle trips, but the substantial increase in traffic would likely result in the degradation of local road conditions. The 2021 DEIR concluded that potential degradation of these roads may create hazardous conditions, resulting in a potentially significant impact. Implementation of the road repair measures included in Mitigation Measure TR-2 would reduce this potential impact to a less-than-significant level.

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

Mitigation Measures**Mitigation Measure TR-1: Prepare and implement a construction traffic control plan.**

Refer to Subsection 2.1.8, "Hazards and Hazardous Materials" (Impact HAZ-5) within this document for a summary of this mitigation measure (or 2021 DEIR Section 4.15 for full text).

Mitigation Measure TR-2: Enter into a road repair agreement with Tehama County.

The contractor shall enter into a road repair agreement with Tehama County Public Works. The agreement shall include post-construction road repair measures to return county roads adversely affected by project-related traffic to pre-project conditions. Pre-project conditions shall be documented by the project proponent and contractor prior to the start of construction. Road repair measures may include chip sealing and reconstruction of any disturbed road shoulders.

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measures TR-1 and TR-2 would reduce Impact TR-3 to a less-than-significant level. Therefore, these mitigation measures have been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

2.1.10 Utilities and Service Systems**Impact UTL-1: Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities.*****Discussion***

If relocation of existing utilities is required or utilities are inadvertently damaged, service interruptions could occur. In addition, the extent and intensity of project construction activities could affect a service providers' ability to quickly repair damage or restore interrupted service. Therefore, the 2021 DEIR concluded that construction activities would have a potentially significant impact on utilities. Implementation of the verification and

Findings and Statement of Overriding Considerations under CEQA

protective measures included in Mitigation Measure UTL-1 would allow the contractor to avoid utilities, where feasible, and would reduce the potential for accidental damage to utilities to less-than-significant levels.

Mitigation Measures

Mitigation Measure UTL-1: Verify utility locations, coordinate with affected utility providers, prepare and implement a damage response plan, and conduct worker training with respect to accidental utility damage.

The project proponent will implement the following measures before construction begins to avoid and minimize potential damage to utilities, infrastructure, and service disruptions during construction.

- Verify through field surveys and the use of the Underground Service Alert services the locations of buried utilities within the project site, including natural gas, petroleum, and sewer pipelines. Any buried utility lines will be clearly marked in the area of construction (e.g., in the field) and on the construction specifications in advance of any earth-moving activities.
- Prepare and implement a response plan that addresses potential accidental damage to a utility line. The plan will identify chain-of-command rules for notification of authorities and appropriate actions and responsibilities regarding the safety of the public and workers. A component of the response plan will include worker education training in response to such situations.
- Stage utility relocations prior to and during construction to minimize interruptions in service.
- Provide notification of any potential interruptions in service to the appropriate agencies and affected landowners.
- Coordinate with PG&E to relocate electrical and natural gas transmission lines and associated infrastructure such as power poles.
- Coordinate with applicable utility and service providers to implement orderly relocation of utilities.

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measure UTL-1 would reduce Impact UTL-1 to a less-than-significant level. Therefore, this mitigation measure has been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

2.1.11 Water Quality

Impact WQ-1: Violate any water quality standards or waste discharge requirements or create or contribute runoff water that would provide substantial additional sources of polluted runoff.

Discussion

Potential groundwater quality impacts would largely be related to potential discharge of harmful substances. Construction activities could bring construction-related contaminants, such as oil and grease, bentonite, and hazardous materials, in contact with the water table. Excavation could extend to a depth that would expose the water table, creating a potential path to groundwater that could allow contaminants to enter the groundwater system and indirectly affect water quality throughout the basin. The 2021 DEIR concluded that if contaminants were introduced into the water table during construction, the impact on water quality would be potentially significant. Implementation of the protective measures and adherence to the regulatory requirements included in Mitigation Measure WQ-1 and Mitigation Measure HAZ-1, respectively, would reduce this potential impact to a less-than-significant level.

Potential surface water quality impacts would largely be related to potential discharge of harmful substances and increased turbidity during construction. Construction activities associated with levee setbacks, levee removal, bank protection, replacement of Red Bridge, raising levees, channel improvements, and new levee construction could involve storage and use of toxic and other harmful substances near Deer Creek and other agricultural ditches near Deer Creek. Construction activities would involve the use of heavy equipment that potentially use products such as fuels, lubricants, hydraulic fluids, and coolants, all of which can be toxic to fish and other aquatic organisms. An

Findings and Statement of Overriding Considerations under CEQA

accidental spill or inadvertent discharge from any equipment could directly affect the water quality of Deer Creek or other water bodies in the project area and vicinity, and indirectly affect regional water quality of the river or other water bodies. Dewatering activities, if not implemented correctly, could contribute to polluted runoff that could enter Deer Creek or other waterways in the vicinity. The 2021 DEIR concluded that if any of these impacts were to occur during construction, they would have a potentially significant impact on water quality. Implementation of the protective measures and adherence to the regulatory requirements included in Mitigation Measure HAZ-1 would reduce this potential impact to a less-than-significant level.

Construction-related ground disturbance, including channel improvements, bridge replacement, as well as levee construction, setbacks, and improvements, has the potential to result in erosion that could increase turbidity in Deer Creek or other water bodies in the project area or vicinity. Improper stabilization of spoil areas could also result in erosion that could increase turbidity. The 2021 DEIR concluded that increased turbidity in these water bodies would have a potentially significant impact on water quality. Implementation of the erosion minimization and control measures and adherence to the regulatory requirements included in Mitigation Measure GEO-1 would reduce these impacts to a less-than-significant level.

Mitigation Measures

Mitigation Measure WQ-1: Obtain appropriate discharge and dewatering permit and implementation provisions for dewatering.

Refer to Subsection 2.1.2, "Biological Resources – Fish and Aquatic Habitat" (Impact FISH-1) within this document for a summary of this mitigation measure (refer to 2021 DEIR Section 4.17 for full text).

Mitigation Measure HAZ-1: Implement a spill prevention control and countermeasures plan to reduce the potential for environmental contamination during construction activities.

Refer to Subsection 2.1.2, "Biological Resources – Fish and Aquatic Habitat" (Impact FISH-1) within this document for a summary of this mitigation measure (or 2021 DEIR Section 4.12 for full text).

Mitigation Measure GEO-1: Acquire appropriate regulatory permits, prepare and implement a storm water pollution prevention plan and associated best management practices for grading and erosion control.

Refer to Subsection 2.1.2, "Biological Resources – Fish and Aquatic Habitat" (Impact FISH-1) within this document for a summary of this mitigation measure (or 2021 DEIR Section 4.10 for full text).

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measures WQ-1, HAZ-1, and GEO-1 would reduce Impact WQ-1 to a less-than-significant level. Therefore, this mitigation measure has been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

2.1.12 Wildfires

Impact WF-1: Due to slope, prevailing winds, and other factors, exacerbate wildfire risks and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire.

Discussion

Trucks transporting construction-related material on and off site, including to staging and stockpiling areas, would bring fuels and vehicles to the project area. The presence of fuels on site, as well as the presence of vehicles adjacent to dry grass areas or other flammable vegetation, could exacerbate fire risk. Although the project area is not located in or near a State responsibility area or local responsibility area classified as a very high fire hazard severity zone, the 2021 DEIR concluded that if a wildfire were to occur as a result of construction activities impacts would be potentially significant. Development and implementation of the fire protection and prevention plan included in Mitigation Measure HAZ-2 would reduce this potential impact to a less-than-significant level.

Findings and Statement of Overriding Considerations under CEQA

Mitigation Measure

Mitigation Measure HAZ-2: Develop and implement a fire protection and prevention plan.

Refer to Subsection 2.1.8, "Hazards and Hazardous Materials" (Impact HAZ-6) within this document for the full text of this mitigation measure (or 2021 DEIR Section 4.12).

Findings

For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that implementation of Mitigation Measure HAZ-2 would reduce Impact WF-1 to a less-than-significant level. Therefore, this mitigation measure has been incorporated into the project to avoid or substantially lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)).

2.2 Potentially Significant and Unavoidable Impacts

2.2.1 Agricultural Resources and Land Use

Impact AG-2: Conflict with existing zoning for agricultural use, or a Williamson Act contract.

Discussion

Construction of Alternatives A through F would result in permanent impacts to Williamson Act lands, even though the project footprint was designed to minimize impacts to agricultural lands, staging areas were sited on already disturbed lands, and access was limited to existing roads to the extent feasible.

Agricultural land in the floodway and channel migration easements would be subject to periodic inundation during high flows and flood events; the land in the SR 99-to-SVRIC Dam easement and confluence easement could not be used for agriculture after project construction. Overall, construction of the common project elements would result in the conversion of approximately 55 acres of Williamson Act lands to nonagricultural uses. Within the levee setback reach, Alternatives A through E would convert additional agricultural lands along the south bank of Deer Creek and in some areas of the north

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

bank to nonagricultural uses. The 2021 DEIR concluded that this conversion likely would be inconsistent with allowable land uses under existing Williamson Act contracts, resulting in a potentially significant impact. The 2021 DEIR also concluded that, if warranted to compensate for the loss of prime farmland, the compensatory measures included in Mitigation Measure AG-1 may reduce the level of significance of this impact. But, because the acreage of conversion of Williamson Act land would be greater than the loss of prime farmland, the compensatory measures may not be sufficient and impacts could remain significant and unavoidable. Consequently, the proposed project could result in a cumulatively considerable incremental contribution that would represent a new cumulatively significant impact to agricultural lands.

Mitigation Measures**Mitigation Measure AG-1: If determined to be necessary, establish conservation easements for the loss of Prime Farmland.**

Refer to Subsection 2.1.1, "Agricultural Resources and Land Use" (Impact AG-1) within this document for summary of this mitigation measure (or 2021 DEIR Section 4.3 for full text).

Findings

Mitigation Measure AG-1 has been incorporated into the project to lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)). No other feasible mitigation or feasible alternatives are available to compensate for the conversion of Williamson Act land. For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that impacts to Williamson Act lands from implementation of the project, including the project's considerable contribution to a significant cumulative impact, would be potentially significant and unavoidable, even with implementation of feasible mitigation measures. Any alternative that avoided this impact would preclude project activities that are required to meet the project purposes of improved geomorphic function and increased and improved spawning and rearing habitat for protected fish species in Deer Creek. In accordance with 15091(a)(3), DWR concludes that there are no feasible mitigation measures or feasible alternatives that would avoid the conversion of Williamson Act lands. Therefore, this impact remains significant and unavoidable. DWR

Findings and Statement of Overriding Considerations under CEQA

concludes that this significant and unavoidable impact, including the project's considerable contribution to a significant cumulative impact, is acceptable in light of the project benefits set forth in Section 4, "Statement of Overriding Considerations."

2.2.2 Air Quality

Impact AIR-2: Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or State ambient air quality standard.

Discussion

Total estimated unmitigated NO_x emissions from construction of all project alternatives would exceed the Level C significance thresholds established by the Tehama County Air Pollution Control District (TCAPCD) under all project alternatives, resulting in a significant impact. As shown in Table 4.4-7 (refer to page 4-65 of the 2021 DEIR), implementation of the equipment emission reduction measures included in Mitigation Measure AQ-1 would reduce these estimated emissions to a level in between the TCAPCD significance thresholds of 25 and 137 pounds per day for NO_x, indicating that mitigated emissions of NO_x would still exceed the Level B threshold. Implementation of additional NO_x control measures included in Mitigation Measure AQ-2 would further reduce NO_x emissions, but it is unknown to what level they would be reduced. Because it is unknown at this time if NO_x emissions could be reduced below the TCAPCD Level B threshold, the 2021 DEIR concluded that construction-related NO_x emissions may violate air quality standards by making a cumulatively considerable contribution to the existing ozone nonattainment status. This impact would remain potentially significant and may be significant and unavoidable. Consequently, the proposed project could result in a cumulatively considerable incremental contribution to an existing cumulatively significant impact on air quality.

Mitigation Measures

Mitigation Measure AQ-1: Implement fugitive dust and equipment exhaust control measures.

The contractor shall implement basic dust and equipment exhaust control measures in compliance with the TCAPCD recommendations.

Mitigation Measure AQ-2: Implement material hauling NO_x control measures.

The contractor shall implement any combination of the following measures to reduce NO_x emissions to the equivalent of the CARB fleet average and 2008 model year on-road vehicle standard or demonstrate equivalency from these options:

- Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to five minutes as a maximum (as required by the California airborne toxics control measure 13 CCR 2485).
- Reduce quantity or duration of construction equipment use on a daily basis.
- Develop a plan demonstrating that off-road equipment (greater than 50 horsepower) and material hauling vehicles used during project construction (i.e., owned, leased, and subcontracted vehicles) achieve emission reductions to the maximum extent feasible. Equipment and material hauling vehicles shall achieve at least a project-wide fleet average equal to the recent CARB fleet average or up to a Tier IV final-equivalent engine. Acceptable options for reducing emissions include the low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available. The project proponent shall demonstrate that project-wide fleet average reductions are achieved by presenting equivalent emission calculation or other methodologies using appropriate models. Annual and final project reports shall be prepared and reviewed by the project representative.
- Limit the number of daily one-way material hauling trips.
- Use newer model year material hauling vehicles that emit less NO_x emissions per trip.

Findings

Mitigation Measures AQ-1 and AQ-2 have been incorporated into the project to lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)). These mitigation measures may be sufficient to reduce NO_x emissions below

Findings and Statement of Overriding Considerations under CEQA

established TCAPCD thresholds depending on final project design and distance traveled to spoil areas. No other feasible mitigation or feasible alternatives are available to compensate for construction-related NO_x emissions. For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that impacts to air quality from increased construction-related NO_x emissions, including the project's considerable contribution to a significant cumulative impact, would be potentially significant and unavoidable, even with implementation of feasible mitigation measures. Any alternative that avoided this impact would preclude project activities that are required to meet the project purposes of reduced flood risk, improved geomorphic function, and increased and improved spawning and rearing habitat for protected fish species in Deer Creek. In accordance with 15091(a)(3), DWR concludes that there are no other feasible mitigation measures or feasible alternatives that would avoid construction-related NO_x emissions. Therefore, this impact remains potentially significant and unavoidable. DWR concludes that this significant and unavoidable impact, including the project's considerable contribution to a significant cumulative impact, is acceptable in light of the project benefits set forth in Section 4, "Statement of Overriding Considerations."

Impact AIR-3: Expose sensitive receptors to substantial pollutant concentrations.

Discussion

Construction impacts to air quality would be most severe adjacent to the construction area and decrease rapidly with increasing distance. Concentrations of mobile-source diesel particulate matter (DPM) emissions are typically reduced by 70 percent at a distance of approximately 500 feet (California Air Resources Board 2005). Because some sensitive receptors are located within 500 feet of the hauling routes, proposed project construction activities would potentially emit substantial quantities of DPM and result in a potentially significant impact. Implementation of the equipment exhaust control measures included in Mitigation Measures AQ-1 and AQ-2 would reduce these emissions. Although construction activities would only occur over a limited timeframe, and implementation of Mitigation Measures AQ-1 and AQ-2 would reduce the potential DPM emissions, the 2021 DEIR concluded that proposed project construction may still expose sensitive receptors to substantial temporary quantities of DPM emissions, resulting in

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

impacts that would remain potentially significant and may be significant and unavoidable. Consequently, the proposed project could result in a cumulatively considerable incremental contribution that would represent a new cumulatively significant impact to air quality.

Mitigation Measures**Mitigation Measure AQ-1: Implement fugitive dust and equipment exhaust control measures.**

Refer to Subsection 2.2.2, "Air Quality" (Impact AIR-2) within this document for a summary of this mitigation measure (or 2021 DEIR Section 4.4 for full text).

Mitigation Measure AQ-2: Implement material hauling NO_x control measures.

Refer to Subsection 2.2.2, "Air Quality" (Impact AIR-2) within this document for full text of this mitigation measure (or 2021 DEIR Section 4.4).

Findings

Mitigation Measures AQ-1 and AQ-2 have been incorporated into the project to lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)). These mitigation measures may be sufficient to reduce the exposure of sensitive receptors to substantial DPM emissions. No other feasible mitigation or feasible alternatives are available to compensate for construction-related DPM emissions. For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that impacts to sensitive receptors from exposure to substantial construction-related DPM emissions, including the project's considerable contribution to a significant cumulative impact, would be potentially significant and unavoidable, even with implementation of feasible mitigation measures. Any alternative that avoided this impact would preclude project activities that are required to meet the project purposes of reduced flood risk, improved geomorphic function, and increased and improved spawning and rearing habitat for protected fish species in Deer Creek. In accordance with 15091(a)(3), DWR concludes that there are no other feasible mitigation measures or feasible alternatives that would avoid exposing sensitive receptors to potentially substantial construction-related DPM emissions. Therefore, this impact remains potentially significant and unavoidable. DWR

Findings and Statement of Overriding Considerations under CEQA

concludes that this significant and unavoidable impact, including the project's considerable contribution to a significant cumulative impact, is acceptable in light of the project benefits set forth in Chapter 4, "Statement of Overriding Considerations."

2.2.3 Greenhouse Gas Emissions and Climate Change

Impact GHG-1: Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.

Discussion

The proposed project would generate greenhouse gas (GHG) emissions during construction. Construction-related GHG emissions would result from the combustion of fossil-fueled construction equipment, material hauling, and worker trips.

The proposed project's estimated annual construction-related GHG emissions would range from 1,972 metric tons of carbon dioxide equivalent (MT CO_{2e}) per year for Alternative F to 6,494 MT CO_{2e} per year for Alternative A. Because of these emission levels, the proposed project's emissions would exceed the TCAPCD significance threshold of 900 MT CO_{2e} per year and would result in a significant impact.

Implementation of the control measures to reduce construction emissions included in Mitigation Measure AQ-2 and further refinement of the project's anticipated construction activities as design details are further developed may reduce these GHG emissions to below the TCAPCD threshold by reducing the potential construction equipment use or hauling trips and using cleaner equipment or trucks. But, because the feasibility and effectiveness of these reductions are unknown at this time, the 2021 DEIR concluded that this impact would be potentially significant and unavoidable. Consequently, the proposed project could result in a cumulatively considerable incremental contribution that would represent a new cumulatively significant impact on global climate change through GHG emissions.

Mitigation Measures

Mitigation Measure AQ-2: Implement material hauling NO_x control measures.

Refer to Subsection 2.2.2, “Air Quality” (Impact AIR-2) within this document for full text of this mitigation measure (or 2021 DEIR Section 4.4).

Findings

Mitigation Measure AQ-2 has been incorporated into the project to lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)). This mitigation measure may be sufficient to reduce GHG emissions below established TCAPCD thresholds depending on final project design and distance traveled to spoil areas. No other feasible mitigation or feasible alternatives are available to compensate for construction-related GHG emissions. For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that impacts from increased construction-related GHG emissions, including the project’s considerable contribution to a significant cumulative impact, would be potentially significant and unavoidable, even with implementation of feasible mitigation measures. Any alternative that avoided this impact would preclude project activities that are required to meet the project purposes of reduced flood risk, improved geomorphic function, and increased and improved spawning and rearing habitat for protected fish species in Deer Creek. In accordance with 15091(a)(3), DWR concludes that there are no other feasible mitigation measures or feasible alternatives that would avoid construction-related GHG emissions. Therefore, this impact remains potentially significant and unavoidable. DWR concludes that this significant and unavoidable impact, including the project’s considerable contribution to a significant cumulative impact, is acceptable in light of the project benefits set forth in Chapter 4, “Statement of Overriding Considerations.”

Impact GHG-2: Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs.

Discussion

The State of California has implemented Assembly Bill (AB) 32 to reduce GHG emissions. The proposed project does not pose any conflict with the most recent list of CARB’s early action strategies, nor is it in one of the sectors at

Findings and Statement of Overriding Considerations under CEQA

which these early strategies are targeted. Water” and “Natural and Working Lands” are two of the sectors targeted in the AB 32 scoping plan (California Air Resources Board 2008), the first update to the AB 32 Scoping Plan (California Air Resources Board 2014), and the Final 2017 Scoping Plan (California Air Resources Board 2017). The Final 2017 Scoping Plan does not mention flood management-related projects as a specific target for additional strategies. The proposed project would be primarily located on natural lands and agricultural lands but would not involve the carbon sequestration activities or forest restoration activities discussed in the Final 2017 Scoping Plan. But, by addressing potential flooding issues and being implemented as efficiently as possible, the proposed project would comply with the overall goals of the AB 32 target sectors (to minimize energy use and adapt to climate change). However, estimated emissions generated by the proposed project would exceed TCAPCD GHG significance threshold and contribute potentially substantial GHG emissions. For this reason, the proposed project would potentially conflict with AB 32, Senate Bill (SB) 32, or the goals of Executive Order (EO) S-3-05 and would be potentially significant. Implementation of the control measures to reduce construction emissions included in Mitigation Measure AQ-2 and further refinement of the project’s anticipated construction activities as design details are further developed may reduce these GHG emissions to below the TCAPCDs threshold by reducing the potential construction equipment use or hauling trips, and using cleaner equipment or trucks. But, because the feasibility and effectiveness of these reductions are unknown at this time, the 2021 DEIR concluded that this impact would be potentially significant and unavoidable.

Mitigation Measures

Mitigation Measure AQ-2: Implement material hauling NO_x control measures.

Refer to Subsection 2.2.2, “Air Quality” (Impact AIR-2) within this document for full text of this mitigation measure (or 2021 DEIR Section 4.4).

Findings

Mitigation Measure AQ-2 has been incorporated into the project to lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)). This mitigation measure may be sufficient to reduce GHG emissions below established TCAPCD

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

thresholds depending on final project design and distance traveled to spoil areas, which would avoid the potential conflict with AB 32, SB 32, or the goals of EO-S-3-05. No other feasible mitigation or feasible alternatives are available to compensate for construction-related GHG emissions. For the reasons set out in the 2021 DEIR and 2022 FEIR, DWR finds that construction-related GHG emissions may conflict with AB 32, SB 32, or the goals of EO-S-3-05 and that impacts, including the project's considerable contribution to a significant cumulative impact, would be potentially significant and unavoidable, even with implementation of feasible mitigation measures. Any alternative that avoided this impact would preclude project activities that are required to meet the project purposes of reduced flood risk, improved geomorphic function, and increased and improved spawning and rearing habitat for protected fish species in Deer Creek. In accordance with 15091(a)(3), DWR concludes that there are no other feasible mitigation measures or feasible alternatives that would avoid this conflict. Therefore, this impact remains potentially significant and unavoidable. DWR concludes that this significant and unavoidable impact, including the project's considerable contribution to a significant cumulative impact, is acceptable in light of the project benefits set forth in Chapter 4, "Statement of Overriding Considerations."

2.2.4 Noise and Vibration

Impact NOI-1: Generate a substantial temporary or permanent increase in ambient noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

Discussion

Ambient noise levels would be expected to temporarily increase during the construction of Alternatives A through F. Construction activities along China Slough would include excavating and removing vegetation along 2.6 miles of the slough. Sensitive receptors located along the slough could experience substantial, temporary increases in ambient noise levels. The nearest sensitive receptor is a residence 15 feet from the slough. Because construction activities would progress along the length of the slough and not be localized at one location, the construction impact would be temporary for the sensitive receptor that is 15 feet away. Construction noise impacts likely would be present at the sensitive receptor for less than one week. Even with

Findings and Statement of Overriding Considerations under CEQA

feasible noise control, the noise levels would still be 75 dBA. Although temporary, the substantial increase in ambient noise levels would result in a significant impact.

Along Deer Creek adjacent to Leininger Road, construction activities would include USACE levee raising, USACE levee removal and levee setbacks, and the Red Bridge realignment and expansion. Several residences along Deer Creek adjacent to Leininger Road are sensitive receptors, including one residence on the north side of Deer Creek that is within 90 feet of project activities. Although construction of project elements in this area would be temporary, the likely use of Leininger Road for hauling and the duration of construction from March to October for Alternatives A through E and from June to October for Alternative F would make this temporary construction impact significant.

Implementation of the noise reduction measures included in Mitigation Measure NOI-1 would reduce project-related noise impacts, but would not reduce the impacts to a less-than-significant level. Temporary construction-related noise impacts would remain significant and unavoidable.

Consequently, the proposed project would result in a cumulatively considerable incremental contribution that would represent a new cumulatively significant impact on noise levels.

Mitigation Measures

Mitigation Measure NOI-1: Implement feasible measures to reduce construction noise.

To the extent feasible and practicable, the primary construction contractor(s) will employ noise-reducing construction practices such that noise effects are limited to the maximum degree practical during construction (refer to 2021 DEIR Section 4.14 for full text).

Findings

Mitigation Measure NOI-1 has been incorporated into the project to lessen the significant impacts on the environment (Public Resources Code Section 21081(a)(1); CEQA Guidelines Section 15091(a)(1)). No other feasible mitigation or feasible alternatives are available to compensate for the substantial temporary increase in ambient noise levels. For the reasons set

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

out in the 2021 DEIR and 2022 FEIR, DWR finds that noise impacts from implementation of the project, including the project's considerable contribution to a significant cumulative impact, would be potentially significant and unavoidable, even with implementation of feasible mitigation measures. Any alternative that avoided this impact would preclude project activities that are required to meet the project purposes of improved geomorphic function and increased and improved spawning and rearing habitat for protected fish species in Deer Creek. In accordance with 15091(a)(3), DWR concludes that there are no feasible mitigation measures or feasible alternatives that would avoid the substantial increase in ambient noise levels near sensitive receptors. Therefore, this impact remains significant and unavoidable. DWR concludes that this significant and unavoidable impact, including the project's considerable contribution to a significant cumulative impact, is acceptable in light of the project benefits set forth in Chapter 4, "Statement of Overriding Considerations."

Findings and Statement of Overriding Considerations under CEQA

Chapter 3. Findings Related to Project Alternatives

CEQA Guidelines Section 15126.6 Consideration and Discussion of Alternatives to the proposed project states:

- “(a) Alternatives to the Proposed Project. 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.
- (b) Purpose. Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.”

In addition, CEQA Guidelines Subsection 15091(a)(3) states that one of the findings an agency can make regarding significant environmental impacts identified in the final EIR is that:

“[S]pecific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.”

Subsections 15091(c) and (d) state that a finding made pursuant to subsection 15091(a)(3) must be supported by substantial evidence and the finding shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.

3.1 Discussion

The findings in Section 2.2 identified Impacts AG-2, AIR-2, AIR-3, GHG-1, GHG-2, and NOI-1 as significant and unavoidable.

Findings and Statement of Overriding Considerations under CEQA

Although Mitigation Measure AG-1, AQ-1, AQ-2, and NOI-1 have been adopted as part of the project, no feasible mitigation measures were identified that could reduce the identified potentially significant and unavoidable impacts to less than significant. No findings identified alternatives, other than the no project alternative, that could reduce the potentially significant and unavoidable impacts to a less-than-significant level. But, the consequences of the no project alternative (refer to 2021 DEIR Section 6.3.2.1) include continued erosion and emergency bank stabilization, as well as limited quantity and quality of floodplain rearing and riparian habitat (refer to Impact GEO-3 and Impact Fish-1 in 2021 DEIR Sections 4.10 and 4.5, respectively).

The no project alternative would not enable DWR to accomplish its fundamental project purpose or any of the specific project objectives identified from the outset in the Notice of Preparation (California Department of Water Resources 2020) and detailed in the 2021 DEIR Executive Summary and Section 1.4.3, "Project Objectives." The objectives are to:

1. Improve geomorphic function to increase the potential for more naturally graded sediment composition and related channel form and the development of more diverse and ecologically complex riparian habitat.
2. Increase rearing habitat for spring-run Chinook salmon.
3. Increase flood conveyance capacity in the Deer Creek watershed and restore USACE levee freeboard conditions for a 21,000 cfs event.
4. Minimize levee maintenance requirements, repairs, and costs.
5. Minimize flood control-related channel maintenance requirements and costs.
6. Minimize impacts to viable agricultural operations for landowners in the proposed project area along Deer Creek.

As the no project alternative would not enable DWR to achieve its fundamental project purpose or any of the above-listed objectives, the no project alternative is not a feasible alternative. The 2021 DEIR examines six "build" alternatives (A through F), in addition to the no project alternative.

Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1

Common project elements between Alternatives (A through F) include levee setbacks and improvements, channel migration and floodway easements, enhanced flood protection in irrigation sloughs, and other ecosystem restoration and flood protection actions (see 2021 DEIR Figure 3-1). Project alternatives differ by how far the existing levees would be set back or moved from their existing alignment (see 2021 DEIR Figure 3-4).

Several key differences among the six “build” alternatives (Alternatives A through F) identified during the alternatives evaluation and comparison are summarized below:

- Alternative A would have the greatest impact on agricultural resources and Alternative F would have the smallest impact, with decreasing impacts from Alternatives A through F in alphabetical order.
- Alternative A would provide the most fish rearing habitat benefits and Alternative F would provide the least, with decreasing benefits from Alternatives A through F in alphabetical order.
- Levee maintenance to prevent channel changes (i.e., lateral migration and geometry adjustment) that could threaten the integrity of flood control and water management infrastructure would be necessary, but would vary between the alternatives. Alternative A would provide the greatest reduction in levee maintenance requirements and Alternative F would provide the least, with decreasing benefits from Alternatives A through F in alphabetical order.

Alternative A would have the most severe significant environmental impacts, though Alternatives B through F would also exceed the thresholds of significance for air quality and GHG emissions and result in impacts that cannot be mitigated to less-than-significant levels. Although Alternative F would have the least severe environmental impacts, it would not provide the environmental benefits of Alternatives A through E.

3.2 Findings

DWR has identified impacts that are potentially significant and unavoidable for all of the “build” alternatives. No alternative, other than the no project alternative, has been identified that would avoid, or substantially lessen, any of the potentially significant and unavoidable impacts of the project. As set forth in the 2021 DEIR and 2022 FEIR, the no project alternative would not meet the fundamental project purpose, or any of the specific objectives.

Findings and Statement of Overriding Considerations under CEQA

Therefore, specific economic, legal, social, technological, or other considerations make the no project alternative infeasible (Public Resources Code Section 21081(a)(3); CEQA Guidelines Section 15091(a)(3)).

Although the other “build” alternatives meet most of the basic objectives of the project that have been identified from the outset in the NOP and subsequent CEQA documents, Alternative A is the environmentally superior alternative because it would provide the greatest environmental benefits and would meet all of the project objectives.

Chapter 4. Statement of Overriding Considerations

CEQA Guidelines Section 15093 states:

- “(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable.”
- (b) When the lead agency approves a project, which will result in the occurrence of significant effects which 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.”

Section 2.1 of this document identifies the project's impacts that are potentially significant that can be reduced to less-than-significant levels. Section 2.2 identifies the project's impacts that are significant and unavoidable and cumulatively considerable. Chapter 3 explains why DWR concluded that there are no feasible alternatives. In this Statement of Overriding Considerations, DWR discusses the significant and unavoidable environmental impacts of the project to determine whether it is acceptable in light of the environmental, economic, legal, social, technological, and other considerations.

4.1 Fundamental Project Purpose and Objectives

The purpose of the project is to reduce flood risk to lands adjacent to Deer Creek by improving the flood management system, improve the geomorphic function of Deer Creek, and increase and improve spawning and rearing habitat for protected fish species in Deer Creek. The specific objectives of the project are listed in Chapter 3 above.

Findings and Statement of Overriding Considerations under CEQA

4.2 Findings

DWR, in determining whether or not to approve the project, balanced the biological, water quality, human health, and geological benefits against the unavoidable and cumulatively considerable impacts and finds that the project cannot be implemented in a way that accomplishes the fundamental project purpose or any of the specific objectives of the project without resulting in the significant and unavoidable and cumulatively considerable impacts described in the 2021 DEIR and 2022 FEIR and summarized above.

Based on the following determinations, DWR has balanced the economic, legal, social, technological, and other benefits of the project and has determined the significant and unavoidable and cumulatively considerable impacts are outweighed by the long-term ecological benefits of the project. In the long-term, the project would have net beneficial ecological and hydrological effects.

DWR determines that, although Alternatives A through E would meet all of the project objectives, Alternative A would best meet three of the project objectives:

- Alternative A would provide the greatest improvement in geomorphic function.
- Alternative A would result in the greatest increase in rearing habitat.
- Alternative A would minimize levee maintenance to the greatest extent.

Approved by:  _____

Title: Dep. Director _____

Date: 3/14/2022 _____

Chapter 5. References

- California Air Resources Board. 2005. *Air Quality and Land Use Handbook: A Community Health Perspective*. [Government Report.] Viewed online at: arb.ca.gov/ch/handbook.pdf. Accessed: Feb. 25, 2019.
- _____. 2008. *Climate Change Scoping Plan: A framework for change*. 152 pp. [Government Report.] Prepared by: California Air Resources Board. Prepared for: State of California. Viewed online at: https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/document/adopted_scoping_plan.pdf. Accessed: Mar. 26, 2019.
- _____. 2014. *First Update to the Climate Change Scoping Plan: Building on the Framework Pursuant to AB 32*. [Government Report.] Viewed online at: https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/2013_update/first_update_climate_change_scoping_plan.pdf. Accessed: Aug. 9, 2021.
- _____. 2017. *California's 2017 Climate Change Scoping Plan (The strategy for achieving California's 2030 greenhouse gas target)*. 132 pp. [Government Report.] Viewed online at: https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/scoping_plan_2017_es.pdf. Accessed: Aug. 9, 2021.
- California Department of Water Resources. 2020. *Notice of Preparation and Public Scoping Meeting for the Lower Deer Creek Flood and Ecosystem Improvement Project, Phase 1*. [Government Public Notice.] Viewed online at: <https://water.ca.gov/News/Public-Notices/2020/Dec-20/NOP-Lower-Deer-Creek-Flood>. Accessed: Feb. 4, 2022.
- Freeman D. 2015. *Report of the Lassen Historical District Located on the 1844 Peter Lassen land Grant, Rancho Bosquejo*. Northeast Information Center of the California Historical Resources Information System. California State University, Chico. [Government Report.]

Findings and Statement of Overriding Considerations under CEQA

Horizon Water and Environment. 2019. *Aquatic Resources Assessment – Lower Deer Creek Flood and Ecosystem Improvement Project*. Prepared for FlowWest LLC. [Report.]

National Marine Fisheries Service. 1997. *Fish Screening Criteria for Anadromous Salmonids. NMFS Southwest Region*. [Government Report.]

National Marine Fisheries Service. 2000. *Guidelines for Electrofishing Waters Containing Salmonids Listed Under the Endangered Species Act*. [Government Report.] Viewed online at: <https://media.fisheries.noaa.gov/dam-migration/electro2000.pdf>. Accessed: Jun. 16, 2021.

Society of Vertebrate Paleontology. 1996 (October 10). *Conditions of Receivership for Paleontologic Salvage Collections. Final draft. Society of Vertebrate Paleontology News Bulletin*. (Issue 166): pages 16–17.

Tehama County Flood Control and Water Conservation District. 2021. "County Maintained Levee Systems." Gerber (CA) [Website.] Viewed online at: <https://tehamacountywater.org/flood-control/levee-systems/>. Accessed: Apr. 28, 2021.

United States Fish and Wildlife Service. 2017. *Framework for Assessing Impacts to the Valley Elderberry Longhorn Beetle (Desmocerus californicus dimorphus)*. U.S. Fish and Wildlife Service; Sacramento, California. 28 pp. [Website.] Viewed online at: https://www.fws.gov/sacramento/documents/VELB_Framework.pdf. Accessed: Jun. 16, 2021.

Useful Web Links

CARB DOORS Program

<http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>

Portable Equipment Registration Program

<http://www.arb.ca.gov/portable/portable.htm>

