APPENDIX D-2

SUMMARY OF ISSUES RAISED IN PUBLIC COMMENTS ON DRAFT IS/MND AND DPR RESPONSES

Ref #	Comment (paraphrase or verbatim)	Response
Central Valley Regional Water Quality Control Board (RWQCB). Peter Minkel, Engineering Geologist		
1	All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. Quoting policy states, "Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State. This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives." The antidegradation analysis is a mandatory element in the NPDES and WDR permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.	The Project is designed to reduce sediment discharge from the Pit resulting in improved water quality to downstream receiving waters and to comply with waste discharge requirements pursuant to CVRWQCB Order No. R5-2017-0086, as amended by R5-2023-0002 effective April 1, 2023. Order No. R5-2017-0086 was issued by the CVRWQCB in light of information and analysis of water quality associated with ongoing discharge from the Malakoff Diggins Pit. Section 3.10, Hydrology and Water Quality, of the IS/MND addresses potential impacts of the Project on surface and groundwater quality. As the Project is intended to comply with the Order, the Project is anticipated to have a beneficial effect on water quality. Additionally, the IS/MND analysis considers the potential for short-term sediment disturbance during construction and concludes that potential construction-related impacts to water quality would be minimized through implementation of construction best management practices.

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2	Projects with one or more acres of disturbance or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the Construction General Permit. Construction activity subject to CGP include clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The CGP requires development and implementation of a SWPPP.	Section 2.6.4, "Construction Best Management Practices," of the IS/MND discusses sediment control best management practices that would be implemented during Project construction to minimize the potential for sediment discharge to surface water using standard storm water construction best management practices where necessary to minimize construction-related disturbance and potential sedimentation and water quality impacts. DPR would require the construction contractor to develop and implement a construction storm water pollution prevention plan (Construction SWPPP) in accordance with the Construction General Permit. DPR has developed a Construction SWPPP for the Project and will submit Permit Registration Documents (PRDs) including a Notice of Intent (NOI) to the Stormwater Multiple Applications and Report Tracking System (SMARTS) for coverage under the Construction General Permit (CGP) prior to construction.
3	Projects that involve the discharge of dredged or fill material in navigable waters or wetlands need a CWA Section 404 permit from USACE. If a Section 404 permit is required, the RWQCB will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the CDFW for information on Streambed Alteration Permit requirements.	DPR recognizes the need to obtain a Clean Water Act Section 404 approval from the USACE. Section 2.9, "Discretionary Approvals," of the IS/MND identifies USACE as a government agency from which approvals may be needed and the Biological Resources section of the IS/MND discusses that, "DPR would apply for, obtain, and comply with conditions of a Section 404 permit from the Corps, a Section 401 Water Quality Certification from the RWQCB, and a Section 1602 Lake and Streambed Alteration Agreement from the CDFW for Project implementation."

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4	If a USACE permit is required, then a CWA Section 401 Water Quality Certification must be obtained from RWQCB prior to project activities. There are no waivers for 401 Water Quality Certifications.	DPR recognizes the need to obtain a Clean Water Act Section 401 Water Quality Certification from the CVRWQCB. Section 2.9, "Discretionary Approvals," of the IS/MND identifies the CVRWQCB as a government agency from which approvals may be needed and the Biological Resources section of the IS/MND discusses that, "DPR would apply for, obtain, and comply with conditions of a Section 404 permit from the Corps, a Section 401 Water Quality Certification from the RWQCB, and a Section 1602 Lake and Streambed Alteration Agreement from the CDFW for Project implementation."
5	If USACE determines that only non-jurisdictional waters of the State (i.e., "nonfederal" waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by RWQCB. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.	DPR has determined that jurisdictional waters of the U.S. are present within the Project area and DPR intends to request and obtain a CWA Section 404 permit from the USACE prior to Project construction.
6	Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under SWRCB Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004).	The Project would exceed the area and fill volumes allowed under General Order 2004-0004 and, thus, is not eligible for coverage under SWRCB Water Quality Order No. 2004-0004-DWQ, and DPR will obtain a CWA Section 404 permit and CWA Section 401 Water Quality Certification for the Project as discussed above.

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7	If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Notice of Intent must be filed prior to beginning discharge.	Prohibition C of the Construction General Permit for Stormwater Discharges 2009-0009-DWQ amended by 2010-0014-DWQ and 2012–0006-DWQ includes "uncontaminated ground water from dewatering" as an authorized non-storm water discharge. DPR will comply with requirements of the permit for discharge of this water.
8	If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under an NPDES permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for Limited Threat Discharges to Surface Water (Limited Threat General Order). A complete Notice of Intent must be submitted to RWQCB to obtain coverage under the Limited Threat General Order.	As discussed above, Prohibition C of the Construction General Permit for Stormwater Discharges 2009-0009-DWQ amended by 2010-0014-DWQ and 2012–0006-DWQ includes "uncontaminated ground water from dewatering" as an authorized non-storm water discharge. DPR will comply with requirements of the permit for discharge of this water.
9	If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under an NPDES permit. A complete Report of Waste Discharge must be submitted with the RWQCB to obtain a NPDES Permit.	The Project is designed to reduce sediment discharge from the Pit resulting in improved water quality to downstream receiving waters and to comply with waste discharge requirements pursuant to CVRWQCB Order No. R5-2017-0086.

Ref #	Comment (paraphrase or verbatim)	Response
California Department of Fish and Wildlife (CDFW). Caitlyn Oswalt, Environmental Scientist		
10	CDFW is primarily concerned with the Project impacts to existing fish and wildlife resources including Scadden Flat checkerbloom (*Sidalcea stipularis*), Olive-sided Flycatcher (*Contopus cooperi*), Little willow flycatcher (*Empidonax traillii brewsteri*), Yellow-breasted chat (*Icteria virens*), Yellow (Brewster's) warbler (*Setophaga petechia brewsteri*), Ringtail (*Bassariscus astutus*), Foothill yellow-legged frog (*Rana boylii*), California Spotted Owl (*Strix occidentalis occidentalis*), Long-eared owl (*Asio otus*), Northern Goshawk (*Accipiter gentilis*), Golden eagle (*Aquila chrysaetos*), Bald eagle (*Haliaeetus leucocephalus*), Western pond turtle (*Emys marmorata*), Bat species, and other aquatic and terrestrial plant and wildlife species. CDFW is also concerned with impacts from the discharge of water on riparian habitat, impacts to downstream aquatic resources.	Each of the species and habitat types identified in the comment are addressed in the IS/MND. Note also that the Final IS/MND identifies Project refinements to include additional habitat restoration and enhancement measures and to expand and clarify the discussion of the Project's water quality improvement and resulting benefits to riparian habitat and downstream aquatic resource.
11	The Project includes the potential use of anionic polyacrylamide flocculants as a soil stabilizer in certain areas of the Pit to reduce sediment entrainment in stormwater flows to enhance fine sediment settling within the Pit. Please provide additional details on the success criteria that will be used for the pilot study, the approximate frequency of flocculant log replacement, and approximate decomposition rates of polyacrylamides and their decomposition byproducts. Describe the potential effects anionic polyacrylamide flocculants and their byproducts could have on fish and wildlife resources over the lifetime of this project. CDFW recommends these impacts be addressed within the IS/MND.	Although the Project as described in the Draft IS/MND included pilot testing and potential use of flocculant and/or soil stabilizers, DPR has determined that such use requires additional evaluation and review of laboratory testing prior to a decision to test or use flocculant and/or soil stabilizers in the Pit. Therefore, DPR has eliminated the pilot testing and potential use of flocculant and/or soil stabilizers has been eliminated from the Project with the exception of biodegradable mulch, hydroseeding, or other typical construction BMP erosion control methods. Any subsequent decision to pilot test or apply flocculant and/or soil stabilizer in the Pit as an interim or long-term sediment control method would require additional evaluation and CEQA review.

Ref #	Comment (paraphrase or verbatim)	Response
12	Please describe if natural flocculants were considered for this project. Compared to chemical flocculants, natural flocculants are safe and stable shear polymers that are sufficiently biodegradable, and do not produce side effects from the waste produced. Natural flocculants, which are derived from polysaccharides and natural polymers are a more environmentally friendly option compared to chemical flocculants. The use of natural flocculants has the advantages of renewability, biodegradability, and nontoxicity on the environment. CDFW recommends DPR consider using natural flocculants in replacement of anionic polyacrylamide flocculants.	As discussed above, although the Project as described in the Draft IS/MND included pilot testing and potential use of flocculant and/or soil stabilizers, DPR has determined that such use requires additional evaluation and review of laboratory testing prior to a decision to test or use flocculant and/or soil stabilizers in the Pit. Therefore, DPR has eliminated the pilot testing and potential use of flocculant and/or soil stabilizers has been eliminated from the Project with the exception of biodegradable mulch, hydroseeding, or other typical construction BMP erosion control methods. Any subsequent decision to pilot test or apply flocculant and/or soil stabilizer in the Pit as an interim or long-term sediment control method would require additional evaluation and CEQA review.
13	Scadden Flat checkerbloom (*Sidalcea stipularis*) has a moderate potential to occur within the project area due to the presence of cattail marsh which could support this species and known associated species. The Native Plant Protection Act (NPPA) prohibits the take or possession of State-listed rare and endangered plants, including any part or product thereof, unless authorized by CDFW or in certain limited circumstances. Take of state-listed rare and/or endangered plants due to Project activities may only be permitted through an ITP or other CDFW authorization. Plant species not listed as rare, threatened, endangered, or candidates for listing under the California Endangered Species Act (CESA) or NPPA may nevertheless meet the definition of rare or endangered provided in CEQA. CDFW recommends the IS/MND include species specific measures to minimize and fully mitigate the impacts to any state-listed species the Project has potential to take.	As noted in the comment, the IS/MND (Table 3.4-2) identifies Scadden Flat checkerbloom as having a Moderate potential to occur within the Project area. However, as discussed in the IS/MND, targeted, protocol-level special-status plant surveys were conducted on July 7, 8, and 9, 2020, and May 11 and 12, 2021, and no special-status plant species were observed. Although the Project is not anticipated to impact special-status plant species, including Scadden Flat checkerbloom, Standard Project Requirement BIO-2 requires that surveys for special-status plant species with a potential to occur in the Project area will be conducted by a DPR-approved botanist during the appropriate blooming periods or when identity can be confirmed and provides avoidance and other measures to ensure avoidance of unauthorized take of Scadden Flat checkerbloom and other special-status plants. If Scadden Flat checkerbloom is detected and cannot be fully avoided, the Project's Restoration Management Permit, (currently anticipated to be obtained for the Project as discussed below), would be amended to secure proper take coverage for this species.

Ref #	Comment (paraphrase or verbatim)	Response
14	CDFW recommends that an ITP be obtained where the Project has the potential to result in take of a species listed as candidate, threatened, or endangered under CESA, and cannot be fully avoided, either through construction or over the life of the Project. Mitigation measures that are adequate to reduce impacts to a less-than significant level to meet CEQA requirements may not be enough for the issuance of an ITP. To issue an ITP, CDFW must demonstrate that the impacts of the authorized take will be minimized and fully mitigated. To facilitate the issuance of an ITP, CDFW recommends the IS/MND include species specific measures to minimize and fully mitigate the impacts to any state-listed species the Project has potential to take.	DPR will obtain appropriate CDFW authorization for potential incidental take of state-listed species. DPR anticipates that the Project's water quality benefits and habitat restoration components, as described in the Final IS/MND, will qualify the Project for a Restoration Management Permit (RMP), as discussed further below. The RMP will include the Project's general and species-specific conservation measures to avoid and minimize potential impacts to State-listed species.
15	An RMP may be issued if the project is implementing a restoration project that is voluntary. The RMP can authorize take of endangered, threatened, and candidate species pursuant to CESA as well as fully protected species (FPS) that are associated with management of CESA-listed species or FPS for restoration purposes that result in net benefits for the Covered Species. CDFW recommends the IS/MND state detailed species-specific restoration activities, species-specific survey and monitoring efforts, and specific details on how the project will benefit each species. Additionally, the IS/MND should describe the short-term and long-term restoration goals for the project site. Early consultation with CDFW is recommended to determine RMP eligibility under the Cutting the Green Tape initiative.	DPR has engaged in discussions with CDFW and has further assessed the project's water quality benefits and habitat restoration opportunities associated with project implementation. As a result, DPR has made refinements to the project to incorporate additional Project components for habitat restoration and enhancement, and has expanded discussion in the impact analysis where relevant to clarify project benefits of improved water quality and related aquatic habitat benefit within the Humbug Creek and South Yuba River watershed. DPR expects that the Project's water quality benefits and voluntary habitat restoration components will qualify the Project to obtain a Restoration Management Permit (RMP).

Ref #	Comment (paraphrase or verbatim)	Response
16	The following fully protected species are either present or have moderate potential to occur within the Project area, Ringtail (*Bassariscus astutus*), Golden eagle (*Aquila chrysaetos*), and Bald eagle (*Haliaeetus leucocephalus*). Project activities described in the IS/MND should be designed to completely avoid any fully protected species that have the potential to be present within or adjacent to the Project area. CDFW also recommends the IS/MND fully analyze potential adverse impacts to fully protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors. CDFW recommends that DPR include in the analysis how appropriate avoidance, minimization, and mitigation measures will reduce indirect impacts and avoid take of fully protected species.	The Project with implementation of project requirements and mitigation measures identified in the IS/MND would avoid direct impacts to State fully protected species that have the potential to be present within or adjacent to the Project area, including Ringtail (*Bassaricus astutus*), Golden eagle (*Aquila chrysaetos*) and Bald eagle (*Haliaeetus leucocephalus*). Measures to ensure these species are avoided include Project timing, pre-construction surveys, biological monitoring, and exclusion zones. Potential indirect impacts such as habitat modification, loss of foraging habitat and/or interruption of migratory and breeding behaviors are not anticipated to occur to these fully protected species due to the Project's design, project requirements, mitigation measures, and habitat restoration goals and components.
17	The IS/MND has identified Project activities that will require notification to CDFW pursuant to Section 1602. Upon receipt of a complete notification, CDFW will determine if the Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. The Project as currently proposed in the IS/MND will require an LSA Agreement. An LSA Agreement will include measures necessary to protect existing fish and wildlife resources. CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, the IS/MND should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, minimization, mitigation, and monitoring and reporting commitments.	DPR acknowledges that the project will require an LSAA. The required notification is in preparation.

Ref #	Comment (paraphrase or verbatim)	Response
18	CEQA requires that information developed in mitigated negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB).	DPR will submit the appropriate reports on special-status species and natural communities to the CNDDB by January 31 following the year of detections of these resources during Project surveys.
19	The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.	DPR will remit applicable fees when filing a Notice of Determination upon approval of the Project CEQA document.
California Heritage: Indigenous Research Project (CHIRP) / Nevada City Rancheria. Ember Amber / Shelly Covert		
20	Everything looks good in the report, with one additional comment/concern/request. It may not belong in the report, necessarily, but an understanding between the Park and Nevada City Rancheria: in the Cultural Resource Mitigation section there is no current mention of how any "Cultural Resources" found would be handled. Consider including: “Upon the possible finding of the aforementioned Cultural Resources, a conversation between Nevada City Rancheria Nisenan Tribe (NCR) and State Parks will take place to discuss best practices to handle/house these items. Such items could be given to NCR to be cared for into the future, in alignment with their Tribal Protocol.”	Standard Project Requirement CULT-2 identified in the Draft IS/MND includes provisions for a DPR-qualified cultural resource specialist to evaluate cultural items that may be discovered during monitoring and implement appropriate treatment measures. Additionally, Mitigation Measure CULT-MM-1 provides for monitoring in areas of disturbance during construction. Although the Project design, requirements, and mitigation measures identified in the Draft IS/MND are considered sufficient to avoid significant, DPR concurs with the comment’s recommendation to enhance the Project’s mitigation description to specify that DPR will engage with the Nevada City Rancheria Nisenan Tribe in the event of discovery of resources that may be of cultural importance to the tribe. Mitigation Measure CULT-MM-1 is revised in the Final IS/MND with text added to require engagement with the Tribe in the event of such discovery.

Ref #	Comment (paraphrase or verbatim)	Response
Nevada County Historical Society. Daniel Ketcham, President		
21	Nevada County Historical Society would like Malakoff Diggins State Historic Park to continue to serve the county with historical interpretation of the region's historic-era gold mining past and that the proposed project is taking actions to achieve that.	As discussed in the IS/MND, the Project will be implemented with project requirements and mitigation that provide for interpretation of historic and other cultural resources values of MDSHP. In particular, Mitigation Measure CULT-MM-2 provides for implementation of cultural resources interpretive plans sufficient to compensate for the adverse change to the Malakoff Hydraulic Mine Complex site and the Malakoff Diggins-North Bloomfield Historic District resulting from the Project and Mitigation Measure CULT-MM-3 provides for implementation of an interpretive plan sufficient to compensate for the adverse change resulting from the project to the telephone pole within the Pit Lake. Through Project design and impact avoidance and mitigation measures, DPR's actions in implementing the Project will continue to preserve the region's historic-era gold mining past while also improving water quality and restoring habitat.
Syd Brown		
22	Implementation of the proposal to construct vehicle access routes within the pit, construct an in-pit diversion swale, grade control structure, and soldier pile wall surrounding the entrance to Hiller Tunnel would have significant impacts to the aesthetics, and culturally significant features of the Malakoff pit.	DPR recognizes and the IS/MND evaluates the Project's potential effects on aesthetics and cultural resources. The analysis in the IS/MND concludes that with implementation of Project requirements and mitigation identified in the IS/MND, the Project would not result in significant aesthetic/visual or cultural resources impacts. The comment does not provide evidence or information that alters the conclusions of the IS/MND.

Ref #	Comment (paraphrase or verbatim)	Response
23	lack of soil nutrients and the disturbance of the surface features from mining activities have made the re-vegetation process painfully slow. The proposed activities would involve vegetation removals and surface disturbance. The proposed project would offer little effective benefit, yet would produce multiple negative impacts.	The IS/MND identifies and evaluates Project impacts associated with vegetation removal and revegetation components of the Project. DPR concludes that the Project would be effective in achieving the sediment control objectives of the Project. Additionally, as discussed further in the Final IS/MND, the Project's habitat restoration components as included in the Project description of the Final IS/MND will provide for enhanced habitat restoration within the Pit.
24	Preferred course of action would be to continue to allow natural "healing" of the geomorphic features (in-pit sediment transport and deposition) and natural re-vegetation	DPR notes the preferred course of action recommended in the comment; however, the approach of allowing "natural 'healing'" would not comply with CVRWQCB Order R5-2017-0086 which requires implementation of best management practices to reduce sediment discharge from the Pit.
25	The eastern landslide areas have continued to adjust to the loss of lateral support from the pit excavation; however, the landslide toe has reached the pit floor and has demonstrated little catastrophic movements in recent years, despite heavy rainfall events and cumulative saturating storms.	DPR notes the comment's description of conditions in the eastern portion of the Pit. The Project's installation of a grade control structure and brush barriers in the eastern portion of the Pit are not intended to prevent or contain catastrophic landslides and, instead, are intended to reduce the movement of coarse sediment from the eastern Pit floor.
26	The proposed actions would introduce jarring intrusions to a significantly wild, yet human-impacted landscape that has been recognized as a cultural resource by federal and state cultural resource officials.	The IS/MND evaluates the Project's potential effects on aesthetics and cultural resources. The analysis concludes that with implementation of project requirements and mitigation identified in the IS/MND, the Project would not result in significant aesthetic/visual or cultural resources impacts. The comment does not provide evidence or information that alters the conclusions of the IS/MND.
27	Constructing a 14' (minimum) wide road where a narrow footpath currently provides access around the pit perimeter would destroy the isolating feel of discovery.	The IS/MND evaluates the Project's potential visual impacts and concludes that with implementation of project requirements identified in the IS/MND, the Project would not result in significant aesthetic/visual or cultural resources impacts. The comment does not provide evidence or information that alters the conclusions of the IS/MND.

Ref #	Comment (paraphrase or verbatim)	Response
28	Cut and fill construction, and scarifying surfaces would actually lead to additional erosion. The plans call for scarification and re-compaction; however, the native material is tightly compacted in its current state and the scarification would only promote additional soil mobility and burial and eventual ineffectiveness of the proposed imported crushed rock road base.	Potential impacts associated with disturbance of material within the Pit are evaluated in the IS/MND, including potential sedimentation and erosion associated with construction activities. Section 2.6.4, "Construction Best Management Practices," of the IS/MND discusses Project construction measures that would minimize the potential for sediment discharge to surface water using standard stormwater construction BMPs where necessary to minimize construction-related disturbance and potential sedimentation and water quality impacts. Gravel base placed on a geotextile fabric is proposed to be used as necessary in saturated and other areas along the construction access road alignment. Geotextile fabric would reduce settling of base gravel and would aid in retaining the viability of the access road for future maintenance activities; however, the IS/MND also anticipates that the construction access road would naturally narrow over time.
29	I believe that the importation of any offsite rock material will negatively impact the views, aesthetics, and cultural integrity of the site.	The IS/MND evaluates Project impacts on aesthetics and cultural resources, including impacts associated with the use of imported rock for construction of BMP components. The comment does not provide evidence or information that alters the conclusions of the IS/MND.
30	Elevating the pit lake by diverting flow along the northern boundary of the pit would have multiple negative significant impacts. Wind and wave erosion would attack the base of the steep cliff walls and potentially undermine them, leading to massive cliff failures. As they currently exist, the cliffs at the far western part of the pit actively ravel, even in dry weather. When subjected to wave attack and blown water spray and wind energy, the cliff walls will accelerate in their erosion, and slope failures can be expected, depositing more material on the pit floor margins, and access ways.	The enhanced Pit Lake would result in periods of increased Pit Lake surface elevations, however, DPR anticipates that the predominant erosion factor for the Pit walls will continue to be caused by surface water runoff during storm events. Although increased saturation could result in potential marginal increases in wave- and/or and wind-induced erosion along the Pit Lake perimeter, the Pit Lake perimeter will largely remain separated from the Pit walls. Where the Pit Lake perimeter would be near the base of steep slopes, the potential for increased wave or wind erosion in these areas would be minimal and would be further reduced through stability provided by the construction access road and enhanced willow plantings along the perimeter of the Pit Lake.

Ref #	Comment (paraphrase or verbatim)	Response
31	The access road, truck turnouts, soldier pile wall, diversion swale and grade control structure would all significantly negatively impact the appearance of this damaged, yet healing landscape. The angular features proposed are in conflict with the setting.	The IS/MND evaluates Project impacts on the visual character/appearance of the Pit, and specifically analyzes changes in visual character associated with the access route, truck turnouts, the soldier pile wall, diversion swale, and grade control structure components of the Project. Notwithstanding the opinions expressed in the comment, the IS/MND analysis concludes that the changes in visual character would be less than significant, and the comment does not alter the conclusions of the IS/MND.
32	I question the ability to drive I-beams into "bedrock" since the area is largely debris from mining activities and either alluvium (which is not bedrock) or cobbles, which will resist penetration.	I-beams would not be driven into the bedrock. As clarified in the Final IS/MND in section 2.5.3, I-beams are proposed to be buried to depths of 14 feet into the underlying soils or socketed into boreholes in the bedrock where the depth of soils is less than 14 feet below existing grade. Geotechnical design studies indicate that imbedding piles to a depth of 14 feet or socketing the piles into boreholes in the bedrock if encountered at a lesser depth would provide sufficient stability. Geotechnical investigations did not encounter cobbles but encountered bedrock at varying depths. Design plans include depth of embedding within bedrock when bedrock is encountered shallower than 14 feet to provide sufficient strength. Conditions will be field verified and stability confirmed during construction to ensure adequate fixation and stability of solder pile wall I-beams.

Ref #	Comment (paraphrase or verbatim)	Response
33	The longer residence time projected for sediment delivery to the pit lake (Sec. 2.5.3, page 15-16) is unlikely to significantly promote fine particle settling, since the troublesome fine-grained particles are clay-sized, and stay in suspension.	DPR recognizes that the enhanced Pit Lake and longer residence time will not be sufficient for complete setting of fine-grained particles and would not eliminate fine particles from Pit discharges. However, the diversion swale and enhanced Pit Lake would reduce direct discharge of high-sediment loaded surface flows from the eastern portion of the Pit and would allow for increase, though not complete, settling of fine-grained sediments within the Pit Lake. Although the BMP components would not eliminate sediment discharge from the Pit, the BMP components would reduce sediment discharges from the Pit and would comply with the CVRWQCB Order for implementation of BMPs to reduce sediment discharge. DPR comprehensively evaluated BMP options in the *Best Management Practices Options Assessment/Engineering Evaluation Report* (Golder Associates, 2020) and concluded that the BMP components of the proposed Project would most effectively achieve the Project objectives while minimizing adverse effects on MDSHP resources and visitors.

Ref #	Comment (paraphrase or verbatim)	Response
34	Construction and fencing of staging areas would remove these areas from public use (Sec. 2.5.5, pages 18), and would create visual intrusions for the recreating public.	The IS/MND describes and evaluates potential impacts on MDSHP visitors associated with reduced availability of certain recreational opportunities during construction. These effects would be minimized with implementation of Specific Project Requirement REC-1. Pursuant to the environmental checklist in Appendix G of the CEQA Guidelines, potential environmental impacts associated with recreation would occur if the Project increases the demand for recreation facilities or requires development of recreation facilities that might have a physical adverse impact. The IS/MND properly concludes that the Project would not have a significant environmental impact associated with recreation. Further, DPR recognizes and the IS/MND evaluates the Project's potential visual impacts of the Project and concludes that with implementation of project requirements identified in the IS/MND, the Project would not result in significant aesthetic/visual or cultural resources impacts. The comment does not provide evidence or information that alters the conclusions of the IS/MND.
35	Sec. 2.6.6: I question the capacity of DPR staff to perform the BMP inspections and maintenance as described in the document. The cost to support the construction, in addition to the inspections and maintenance, seems to exceed the environmental benefits anticipated from the admitted interim treatment (Sec. 2.10. page 32).	As required by the NPDES permit and the TSO, DPR has provided the CVRWQCB with confirmation of financial resource commitment for selected BMPs. The comment's observations of cost/benefit are noted but do not raise an environmental issue related to the adequacy of the IS/MND.
36	Given that the situation has existed in a slowly healing state since the cessation of hydraulic mining, the urgency and justification for the proposed project seem unjustified: "Long-term sediment control and remediation measures have not been determined and the environmental effects of their implementation have not and cannot be assessed at this time." (Sec. 2.10. page 32).	As described in the IS/MND, the Project BMP components are required in lieu of numeric effluent limits for compliance with CVRWQCB Order R5-2017-0086. DPR continues to evaluate potential long-term remediation options for meeting numeric effluent standards of the Order.

Ref #	Comment (paraphrase or verbatim)	Response
37	Aesthetics: The checklist ascribes no impact to scenic resources including but not limited to trees, rock outcroppings, and historic buildings…within a state scenic highway. I submit that a State Historic Park warrants even greater consideration than a state scenic highway.	The CEQA environmental checklist question noted in the comment specifically pertains to features "within a state scenic highway." As discussed in the IS/MND, the Project is not visible from a state-designated scenic highway, and therefore properly identifies "No Impact" for that particular checklist question. The IS/MND fully evaluates potential aesthetic/visual impacts in consideration of the important aesthetic, biological, cultural, historical, and other values of MDSHP.
38	The checklist assigns less than significant impact to the degradation of the existing visual character or quality of the site and surroundings. I disagree that the impact of the proposed project's degradation of the site's visual character is less than significant. Page 39: "These construction disturbances and activities would be visible from trails and overlooks during the duration of construction, and would represent an adverse change in the character of the Pit during the construction phase."	DPR recognizes and the IS/MND evaluates the Project's impacts on the visual character and quality of the site. As cited in the comment, the analysis identifies that the visibility of Project components would be an adverse change to visual character, but the analysis concludes that with implementation of project requirements identified in the IS/MND, the Project would not result in a significant aesthetic/visual impact. The comment does not provide evidence or information that alters the conclusions of the IS/MND.
39	Page 41: Interceptor Swale and Soldier Pile Wall: The document dismisses the impact of vegetation removal with the glib statement that the swale and adjacent berm "are expected to return quickly to a thickly vegetated condition" (paragraph 1, Interceptor Swale). There is no basis for this conclusion; the re-vegetation that exists has taken 140 years to become established! Continuing on, in paragraph 3, in the discussion of the "Enhanced Pit Lake and Soldier Pile Wall" the document states that "much of the wall would quickly be shielded by regrowth of the riparian vegetation."	The conditions of the Pit have changed over time since the cessation of historic mining activities. Sediment accumulation has led to the current Pit floor conditions in which certain areas are suitable for willow and other riparian vegetation growth. Revegetation of areas disturbed during BMP construction will be aided through willow plantings which are anticipated to successfully establish in these areas. Monitoring and additional plantings or other measures would be implemented as needed to ensure reestablishment of vegetation.

Ref #	Comment (paraphrase or verbatim)	Response
40	I dispute this finding and the conclusion at the end of the paragraph that "the placement of the soldier pile wall would not result in a significant change in the visual character of the Pit." The opposite is true.	The IS/MND evaluates the Project's impacts on the visual character and quality of the site, including the visibility of the proposed soldier pile wall. The analysis identifies that the visibility of Project components would be an adverse change to visual character, but the analysis concludes that with implementation of project requirements identified in the IS/MND, the Project would not result in a significant aesthetic/visual impact. The comment does not provide evidence or information that alters the conclusions of the IS/MND.
41	Page 42, Boardwalk Removal and Trail Realignment: The document states that "the boardwalk is not considered to represent an important element to the visual character of the Pit and its removal is not considered adverse." Again, I dispute this conclusion. I have led many hikes throughout the pit and along the Diggins Loop trail, and the boardwalk is always a favorite stop, with the recently installed natural history interpretive panel. This is an important vantage point to view the open water and waterfowl families that use the pond.	The IS/MND evaluates the Project's impacts on the visual character and quality of the site, and specifically addresses the boardwalk removal and trail realignment components of the Project (Draft ISMND pg. 42). The IS/MND discusses that removal of the existing boardwalk from the Pit Lake would eliminate a location from which views of the Pit are available. Notwithstanding the opinion expressed in the comment, DPR does not consider the boardwalk to represent an important element to the visual character of the Pit and its removal is not considered to represent a substantial adverse change in character. The IS/MND also concludes that the new trail route that would be installed along the southern edge of the Pit Lake would provide a new view location comparable to that currently provided by the boardwalk. For these reasons, the IS/MND concludes that removal of the boardwalk would not result in a significant adverse visual impact.

Ref #	Comment (paraphrase or verbatim)	Response
42	Agriculture and Forestry Resources Impact Discussion (page 45): With regard to loss of forestland and related habitat, the discussion lists no impact; however, the project proposes removal of vegetation, possibly including trees, and riparian vegetation that has taken many decades to establish.	The IS/MND discusses that the Project site contains a mix of vegetation cover types, including Ponderosa Pine forest, dominated by Ponderosa Pine, with interstitial, subdominant conifers and hardwoods, including Douglas Fir, Incense-Cedar, and California Black Oak. The Project would not result in substantial loss of forestland or conversion of forest land to other uses. The comment is correct in noting that the checklist incorrectly identifies "No Impact" when, in fact, the Project would result in a less-than-significant impact associated with conversion of forest land to non-forest use. DPR has revised the Final IS/MND to note this impact as "Less than Significant".
43	Page 53: Second line of paragraph 1. There appears to be a word left out. The sentence reads: "Once **construction**, [bold added by me, for emphasis] the Project BMP components would function passively, requiring only limited and periodic maintenance activities."	The comment identifies a typographical error in the IS/MND, in which the word "construction" was intended to be "constructed." This typographical error has been corrected in the Final IS/MND and is immaterial to the analysis and conclusions of the IS/MND.
44	Figure 3.4.1 (page following page 55 of the document): The figure mis-locates Hiller Tunnel and the proposed soldier pile wall by about 100' to the east (black arrow). The orthophoto base clearly indicates the path of Diggins Creek, in a shadowed serpentine path.	Figure 3.4-1 of the IS/MND correctly identifies the location of the Hiller Tunnel *inlet*. The arrow line pointing to the inlet location is not intended to represent the tunnel alignment. To clarify this, the label "Hiller Tunnel" is changed to "Hiller Tunnel Inlet" on Figure 3.4-1 of the Final IS/MND.
45	Page 60, Table 3.4-3: The table should include a discussion of the possibility of habitat for Pacific fishers. I have personal knowledge of a Nevada County resident who prepared her masters thesis on Pacific fishers, and she has seen them on North Bloomfield Road (I know this is an anecdotal reporting, but the possible presence of Pacific fishers should be considered).	Based on available data in the CNDDB and camera trapping surveys conducted by DPR, DPR is not aware of evidence to suggest that fishers are present in the areas that would be affected by the Project. The commenter does not provide a referenced account that is adequately substantiated to warrant a change in the determination that fishers are unlikely to be present in the Project area.

Ref #	Comment (paraphrase or verbatim)	Response
46	Page 61, Table 3.4-3, continued, Silver-haired Bat Potential for Occurrence: The notation refers to hoary bats (in fact the description is an exact replica of the Hoary Bat discussion—probably cut and pasted. I believe that there is a high potential for Silver-Haired Bats in the project area, perhaps the author meant to delete "hoary" and replace with "silver-haired".	The comment correctly notes a typographical error in Table 3.4-3. The inadvertent reference to "hoary bat" in the silver-haired bat row has been corrected in the Final IS/MND to reference Silver-haired bat. Other information about this species remains unchanged and this correction does not affect the analysis or conclusions of the IS/MND.
47	Page 63, Table 3.4-3, continued: The final entry for Special Status Wildlife Species lists Foothill Yellow-Legged Frog as Moderate Potential for Occurrence in the project area. I have personally counted dozens of foothill yellow-legged frogs finding refuge inside of Hiller Tunnel, the single time I toured a small group through the tunnel. After that, I avoided entry in to the tunnel out of consideration of the disturbance my entry would cause. The table entry should acknowledge the actual presence of the population. In addition, counter to the table's comment, Hiller Tunnel and Diggins Creek in fact are "rocky stream habitat".	The area of impact for construction does not include the Hiller Tunnel. Foothill Yellow-legged Frog (FYLF) were not detected in the proposed work areas during Project surveys performed by WRA, and habitat within the work areas does not include habitats that are likely to support FYLF most of the time. Therefore, within the Project area, the determination that FYLF has Moderate Potential for Occurrence is appropriate. The species is acknowledged as being present in the Hiller Tunnel and elsewhere in the MDSHP outside the Project area, however, appropriate mitigation measures for FYLF are incorporated into the IS/MND and DPR will seek appropriate take coverage under the California Endangered Species Act (CESA) for any FYLF that cannot be avoided during construction through an application to the State's Restoration Management Permit program.
48	Page 73, paragraph 1, first complete sentence: The statement "…the Project would provide a net benefit to wetland resources within and downstream of the BRSA by improving water quality and reducing sediment discharge from the Pit" is aspirational, but not likely to be realized. I submit that there would be little if any measurable reduction of sediment discharge from the pit in the long term, and perhaps even an increase due to disturbance in the short term.	Notwithstanding the doubts expressed in the comment, the Project BMP components were selected through an evaluation process that concluded the BMPs will be effective at reducing sediment discharge from the Pit. The Project has also been refined in the Final IS/MND to include specific habitat restoration components and baseline and post-construction monitoring of aquatic resources conditions in Diggins Creek and Humbug Creek to identify and document water quality and aquatic resources conditions to assess the efficacy of the Project in benefitting aquatic resources through reduced fine particle sediment.

Ref #	Comment (paraphrase or verbatim)	Response
49	Page 74, e): The document states that the "Project would result in no impact regarding conflicts with local policies and ordinances associated with the protection of biological resources". I submit that if implemented, the Project would negatively impact foothill yellow-legged frog habitat, and it would cause unacceptable disturbance to a recovering riparian forest.	Potential impacts to FYLF and impacts associated with vegetation and habitat disturbance during construction are evaluated in the IS/MND. DPR has not identified any applicable local policies or ordinances with which the Project would conflict and the comment does not identify any specific local policies or ordinances with which the Project would conflict. Additionally, the Project as refined in the Final IS/MND provides specific habitat restoration components directed toward improved FYLF habitat.
50	Page 94, Geology and Soils Checklist: The table lists "no Impact" for listed items b), c), d), e), and f) items. The "no impact" judgment is wishful thinking. The eastern area of the project area is actually an active landslide, and the proposed placement of the grade control structure and brush barriers will necessarily disturb the landslide surface.	DPR notes the opinion expressed in the comment. See responses below for discussion of specific items.
51	d): The top part of the landslide moves along a discrete surface of saturated expansive clay—smectite. The grade control structure is unlikely to be effective at establishing a grade, and it will be an unsightly and unwelcome addition to the pit. The grade control structure itself is anticipated to function to contain/retain coarse sediment for about 5 years. If constructed, it is conceivable that its effectiveness could last for much less time, and as described above, the movement of coarse sediment to the pit floor and out of the pit is not a serious problem, but a natural response to the mining-related disturbances.	The opinions expressed in the comment are noted. The comment is correct that the grade control structure is to function as coarse sediment retention. If, as conceived in the comment, sediment accumulates behind the grade control structure in less than 5 years, that circumstance would not indicate that the structure is ineffective; instead, it would indicate that the structure served its intended purpose of capturing and retaining coarse sediment.

Ref #	Comment (paraphrase or verbatim)	Response
52	f) (page 96): The eastern landslide slopes contain very fragile and unstable fossil remains of Miocene age—plant impressions of leaves, bark, and branches. These fragile resources are rare and not well-described nor protected. The proposed project could result in loss and destruction of these fragile items. I don't believe that there exists a "DPR-qualified specialist" to assess fossils found in the field, and the conclusion that no geology and soils mitigation measures are required is insufficient to assure required resource protection.	In considering the comment, DPR engaged in additional discussions with the commenter regarding the potential presence of plant fossil remains in the Pit. Without disclosing specific locations within which plant fossils may be most likely to be present, DPR has concluded that the areas of potential occurrence are outside of the Project disturbance areas and, thus, the Project would not be expected to have an adverse effect on plant fossils in these areas. The Draft IS/MND identified the potential for inadvertent discovery of plant or animal fossils and includes Specific Project Requirement GEO-3 that would require temporary cessation of construction activities and evaluation of any encountered subsurface deposits having the potential to be a paleontological resource. Specific Project Requirement GEO-3 has been enhanced in the Final IS/MND to require pre-disturbance review of Project construction disturbance areas and to provide worker education for identification of potential fossil resources. Additional discussion of the potential for fossil resources to be encountered during construction has also been added to the Final IS/MND.
53	Page 121 and 122 (Recreation): The project will introduce disruptions to public use of the trails and park, during the most popular time of year, when visitation is at its highest level. The loss of access during construction, and the permanent loss of the boardwalk are recreation and visitor use impacts that need to be considered and mitigated.	The IS/MND describes and evaluates potential impacts on MDSHP visitors associated with reduced availability of certain recreational opportunities during construction. Such impacts would be minimized with implementation of Specific Project Requirement REC-1. Pursuant to the environmental checklist in Appendix G of the CEQA Guidelines, potential environmental impacts associated with recreation would occur if the Project increases the demand for recreation facilities or requires development of recreation facilities that might have a physical adverse impact. The IS/MND properly concludes that the Project, including the development of a new trail segment along the southern perimeter of the Pit Lake, would not have a significant environmental impact associated with recreation.

Ref #	Comment (paraphrase or verbatim)	Response
54	Cultural Resources Considerations. The document cites Selverston 2022 as an evaluation of the impacts of the project, and I requested a copy of the report, and although I was told a redacted version would be made available for my review, as of this date (January 16, 2023), I have not seen or reviewed that report.	In response to the comment's request, DPR provided the commenter with a redacted version of Selverston 2022 (cultural resources effects analysis) on January 20, 2023.
55	I believe that the document is inadequate in its treatment of a number of issues, as elaborated above, and I am concerned that so much effort and eventual cost will be spent for such a questionable overall benefit. I believe that the slow natural "healing" of the legacy mining impacts is a preferred alternative—far superior to the proposed set of BMP projects. Furthermore, even if implemented as proposed, the BMPs are admittedly not long term "solutions" to the "problem" of turbid water outflow through Hiller Tunnel to Diggins Creek, Humbug Creek, and eventually the South Yuba River.	DPR notes the opinions expressed in the comment and will consider the issues raised when making decisions associated with the Project. As the comment states and as discussed in the IS/MND, the proposed sediment control BMPs are not intended as permanent sediment control strategies and DPR continues to evaluate long-term remediation options.
56	I would recommend that the Department of Parks and Recreation seek a waiver of discharge requirements under section 13269 of the Water Code. It is my understanding that the public interest would be best served if a waiver were granted, and I submit that the discharge from Hiller Tunnel does not "pose a significant threat to water quality".	DPR notes the comment's recommendation to seek a waiver of discharge requirements. However, DPR is subject to RWQCB Order R5-2017-0086 and is obligated to comply with that Order.

Ref #	Comment (paraphrase or verbatim)	Response
The Sierra Fund. Carrie Monohan, Program Director		
57	Intro to letter includes overview of TSF, documents/studies prepared, and other initiatives. Overall, impressed with the size and vision of this project. Excited to be able to work alongside the partners in the project to address this behemoth of a problem. Malakoff Diggins first water quality samples that quantified the sediment and metals in the discharge were collected in 1978. It is high time we use our combined knowledge and understand to address this ongoing water quality and sedimentation problem.	The comment is introductory and does not comment on the adequacy of the IS/MND. DPR recognizes the ongoing commitment of The Sierra Fund in seeking to address water quality issues associated with Malakoff Diggins, and DPR appreciates The Sierra Fund's review and input on the Project and CEQA document.
58	From our Humbug Creek Watershed Assessment our primary findings at Malakoff were that the majority of the sediment and mercury discharged from the pit took place during high flow events and was primarily silt and clay particles with associated metals. … found that over half the load was discharged during one or two storm events a year. And that the metals were associated with silt and clay particles, also known as "particulate bound" metals, not dissolved… the type of discharge we have at Malakoff is event driven and stochastic in nature and any solution designed to abate the water quality and sediment problems should take this into consideration. If the solution is not designed for the big storm events then does it address the problem at all? Low flow, baseflow conditions, do not represent the primary water quality problem at Malakoff. Solutions designed to address baseflow conditions will be only minimally effective. And like the brush dams that were installed by Parks in the west end of the pit, may fill in with the first big storm.	DPR recognizes the importance of large storm events in contributing to sediment discharge from the pit. The proposed BMP measures would function during large storm events by reducing coarse sediment movement from the eastern portion of the pit, directing flows within the pit away from direct discharge to the Hiller Tunnel, and creating an enhanced Pit Lake through installation of the soldier pile wall that would reduce direct discharge from the Pit during and following large storm events reducing the discharge of sediments.

Ref #	Comment (paraphrase or verbatim)	Response
59	Concern 1: The grade control structure is not likely to be effective at establishing a grade. The grade control structure itself is anticipated to function to contain/retain coarse sediment for about 5 years. If constructed, it is conceivable that its effectiveness could last for much less time, and as described above, the movement of coarse sediment to the pit floor and out of the pit is not the water quality problem, the movement of fines, silts and clays is the primary water quality problem, and this grade control structure will not address that.	The observations in the comment are noted. The grade control structure is anticipated to be effective at capturing and slowing the movement of coarse sediment from the eastern portion of the Pit. If coarse sediment accumulates behind the grade control structure in less than 5 years, that circumstance would not indicate the structure is ineffective, and instead would indicate that the structure served its intended purpose of capturing and retaining coarse sediment. Although coarse sediment movement out of the Pit does not substantially contribute to the fine silt and clay particle discharge from the Pit, retaining coarse sediment in the eastern portion of the Pit will allow for better function of the proposed fine particle capture elements of the Project including the interceptor swale and enhanced Pit Lake.
60	Concern 2: Similarly, the longer residence time projected for sediment delivery to the pit lake (Sec. 2.5.3, page 15-16) is unlikely to significantly promote fine particle settling, since the troublesome fine-grained particles are clay-sized, and stay in suspension for long periods of time and can travel long distances. This is in fact the primary water quality concern to the South Yuba River, which can show turbidity for as much as 7 miles downstream of the Humbug Creek confluence.	DPR recognizes that fine particles may be suspended for long periods of time and, when released in surface water flows from the Pit, can travel long distances downstream. The sediment control measures proposed for the Project are not expected to capture all fine particles, and instead are intended to increase fine particle settling as compared to existing conditions to reduce the amount of sediment discharge from the Pit.

Ref #	Comment (paraphrase or verbatim)	Response
61	Concern 3: Overall, as the document states, the "long-term sediment control and remediation measures have not been determined and the environmental effects of their implementation have not and cannot be assessed at this time." (Sec. 2.10. page 32). Which means that the proposed actions are considered temporary and, in our opinion, are unlikely to be successful.	As discussed in the IS/MND, the objectives of the proposed sediment control BMPs include reducing sediment discharge from the Pit in compliance with CVRWQCB Order No. R5-2017-0086; implementing BMPs that are effective at managing sediment and feasible to implement, and installing and maintaining BMPs that will be effective for a minimum of 3 to 5 years, with the ability to expand and modify to extend the functional life until such time as long-term remediation options to comply with numeric effluent limits are implemented. DPR recognizes that the BMPs are not intended to serve as long-term or permanent remediation, but anticipates that the BMPs will be successful in meeting the Project objectives.
62	Impact 1: Construction of vehicle access routes within the pit, construct an in-pit diversion swale, grade control structure, and soldier pile wall surrounding the entrance to Hiller Tunnel would have significant impacts to the aesthetics, and culturally significant features of the Malakoff pit.	DPR recognizes and the IS/MND evaluates the Project's potential effects on aesthetics and cultural resources. The analysis concludes that with implementation of project requirements and mitigation identified in the IS/MND, the Project would not result in significant aesthetic/visual or cultural resources impacts. The comment does not provide evidence or information that alters the conclusions of the IS/MND.
63	Impact 2: Constructing a 14' (minimum) wide road where a 2 narrow footpath currently provides access around the pit perimeter would destroy the isolating feel of the pit.	The IS/MND evaluates the Project's potential effects on aesthetics, cultural resources, and visitor experience associated with construction disturbance and modifications within the Pit, including widening and disturbance associated with the access road. The analysis concludes that with implementation of project requirements and mitigation identified in the IS/MND, the Project would not result in significant impacts to visual or cultural resources or to recreation and user experience. The comment does not provide evidence or information that alters the conclusions of the IS/MND.

Ref #	Comment (paraphrase or verbatim)	Response
64	Impact 3: Cut and fill construction, and scarifying surfaces would lead to additional erosion. The plans call for scarification and re-compaction; however, much of the native material is tightly compacted in its current state and the scarification would only promote additional soil mobility and burial and eventual ineffectiveness of the proposed imported crushed rock road base.	Potential impacts associated with disturbance of material within the Pit are evaluated in the IS/MND, including potential sedimentation and erosion associated with construction activities. Section 2.6.4, "Construction Best Management Practices," of the IS/MND discusses sediment control BMPs that would be implemented during Project construction to minimize the potential for sediment discharge to surface water using standard construction stormwater BMPs where necessary to minimize construction-related disturbance and potential sedimentation and water quality impacts.
65	We are concerned that so much effort and eventual cost will be spent for such a questionable overall benefit that does not address the long-term problem which is driven by large storm events and is water quality associates with the transport of fine silts and clays and their associated metals. The proposed actions would introduce large disturbances to a significantly wild, yet human-impacted landscape that has been recognized as a cultural resource by federal and state cultural resource officials and the actions may make the problem worse.	Although the Project would not eliminate sediment discharge from the Pit, the BMP components would reduce sediment discharges from the Pit and would comply with CVRWQCB Order No. R5-2017-0086. DPR comprehensively evaluated BMP Options in the *Best Management Practices Options Assessment/Engineering Evaluation Report* (Golder Associates, 2020) and concluded that the Project's integrated BMP components would most effectively achieve the Project objectives. DPR continues to evaluate potential long-term remediation options for meeting numeric effluent standards of the Order and such options will be evaluated under CEQA once defined and proposed by DPR. The IS/MND evaluates the Project impacts on the recognized historic values of the Pit and MDSHP, and concludes that as designed and with implementation of project requirements and mitigation identified in the IS/MND, the Project would not significantly impact the cultural significance of MDSHP.
Sierra Streams Institute. Jeff Lauder, Executive Director		
66	Introduction with overview of organization and work/studies in the area. We have extensive monitoring history in the region of Malakoff Diggins State Park, specifically on Yellow-Legged Frog (*Rana boylii*) populations in Humbug Creek and Spring Creek.	The comment is introductory and does not comment on the adequacy of the IS/MND. The Sierra Streams Institute role and experience is noted.

Ref #	Comment (paraphrase or verbatim)	Response
67	Concerned regarding project longevity, monitoring protocols for water quality before, during, and after the project, the lack of adaptive management options presented, and in particular we are concerned about the proposed use of flocculants and soil stabilizers.	As discussed in the IS/MND, the Project objectives include reducing sediment discharge from the Pit in compliance with CVRWQCB Order No. R5-2017-0086; implementing BMPs that are effective at managing sediment and feasible to implement, and installing and maintaining BMPs that will be effective for a minimum of 3 to 5 years, with the ability to expand and modify to extend the functional life until such time as long-term remediation to comply with numeric effluent limits is implemented. DPR recognizes that the BMPs are not intended to serve as long-term or permanent remediation, but anticipates that the BMPs will be successful in meeting the Project objectives. With regard to concerns about the use flocculants and soil stabilizers, although the Project as described in the Draft IS/MND included pilot testing and potential use of flocculant and/or soil stabilizers, DPR has determined that such use requires additional evaluation and review of laboratory testing prior to a decision to test or use flocculant and/or soil stabilizers in the Pit. Therefore, DPR has eliminated the pilot testing and potential use of flocculant and/or soil stabilizers has been eliminated from the Project with the exception of biodegradable mulch, hydroseeding, or other typical construction BMP erosion control methods. Any subsequent decision to pilot test or apply flocculant and/or soil stabilizer in the Pit as an interim or long-term sediment control method would require additional evaluation and CEQA review.
68	We also feel that less intrusive yet still potentially more effective restoration approaches could be utilized. Below we outline our specific concerns and lay out our suggested alternatives.	The comment's preference for less-intrusive approaches is noted. Please see responses below regarding specific issues raised in the comment letter.

Ref #	Comment (paraphrase or verbatim)	Response
69	Coarse Sediment Management and Interceptor Swale Construction. The proposed project includes removal of vegetation from the primary source slope of erosion, construction of grade control structures and brush barriers, and the construction of an interceptor swale below the slope to guide erosion. We feel this approach is far too heavy-handed for the system, and question the potential tradeoffs inherent in vegetation removal versus any grade control or rock armoring. Vegetation roots are a primary source of erosion control in this system. Vegetation removal may have more adverse erosion impacts than are remediated through the brush barriers. We recommend keeping vegetation where appropriate as opposed to de-vegetating entire slope.	DPR recognizes the important habitat and soil stability benefits of vegetation within the Pit. Vegetation removal would be limited to that necessary for construction of the BMP elements. Revegetation of disturbed areas and additional habitat restoration elements (as discussed in the Final IS/MND) would restore habitat and soil stabilization benefits. DPR recognizes the value of vegetation roots in holding soil in place and avoiding erosion. Existing vegetation will be avoided and retained during construction to the greatest extent possible.
71	Soldier Pile Wall Construction and Pit Lake Enhancement: The proposed project includes development of a soldier pile wall to increase sedimentation and surface area of the Pit Lake within the main diggins pit. Would this actually unintentionally increase likelihood of discharge over the natural overflow site? Has monitoring been done of discharge over this natural spillway and are impacts different than those through the Hiller Tunnel?	The enhanced Pit Lake component of the Project would provide for increased Pit Lake elevations and enhanced fine sediment capture. Sediment accumulation in the Pit under existing conditions results in an ongoing reduction in Pit surface water storage. Over time the additional sediment capture would reduce the water storage capacity of the Pit at a marginally faster rate than under existing conditions. However, as discussed in Section 2.3 of the IS/MND, the sediment control BMPs – in particular, the soldier pile wall that would create the enhanced Pit Lake – are expected to decrease the potential for the Hiller Tunnel to become blocked. If the Hiller Tunnel were to become blocked and inflow to the Pit exceeds the Hiller Tunnel conveyance capacity for a sufficient period of time, the water storage capacity of the Pit could be exceeded and discharges from the Pit would occur at an uncontrolled natural spillway in the southwest corner of the Pit. By reducing the potential for blockage of the Hiller Tunnel, the Project is expected to reduce the potential for discharge from the uncontrolled natural spillway as compared to existing conditions.

Ref #	Comment (paraphrase or verbatim)	Response
72	Biological Mitigation Strategies: We are concerned the mitigation measures proposed are highly subjective, and should instead use some sort of quantitative threshold of action. For example, BIO-MM 1 & 2 discuss monitoring special status species for "disturbance behaviors." What qualifies as disturbance behaviors? More clarity is requested on the threshold of disturbance and disturbance behaviors; how will project staff minimize subjectivity of disturbance impact mitigation?	Mitigation measures that require DPR-qualified environmental scientists and biologists are considered appropriate and sufficient to monitor, assess, and direct the implementation of specific actions that may be necessary to address conditions during Project construction.
73	Seasonal/date-constrained work periods to avoid impacts on sensitive species (in particular herps) should be flow and temperature-based as opposed to strictly using dates. Different flows may occur independent of actual dates, and work may have impacts even in the "approved" work window under certain conditions.	Project construction must necessarily be scheduled to occur when conditions in the Pit are sufficiently dry/less saturated and suitable to accommodate construction access. The impact analysis and mitigation measures in the IS/MND are protective of special-status species without further constraining construction on specific flow or temperature constraints. However, water flow rates, temperature, and other factors will be considered by DPR-qualified biologists during pre-construction surveys and construction monitoring with the authority to direct construction activities as necessary to protect sensitive species in accordance with regulatory permits and conditions.
74	Flocculants/Soil stabilizers: We'd like all information on the pilot study on these materials to be publicly available. Specifically, we would like to see re-application timelines, monitoring data from during and after rain events (as recommended by PAM manufacturers), and general environmental disposition.	As noted above, the pilot testing and potential use of flocculant and/or soil stabilizers has been eliminated from the Project. Any subsequent decision to pilot test or apply flocculant and/or soil stabilizer in the Pit as an interim or long-term sediment control method would require additional evaluation and CEQA review.

Ref #	Comment (paraphrase or verbatim)	Response
75	Studies have found re-application necessary after about 6 weeks (in a review/on average) In general, we feel more information is needed about flocculants and/or stabilizers, as numerous studies demonstrate toxicity in invertebrates. Limited toxicity has observed been in vertebrates, but "more data needed" seems to be the consensus of most studies. The acrylamide byproducts of polyacrylamide have been shown to be an inhaled carcinogen. We recommend not using these stabilizers in an already degraded natural system as a pilot microcosm experiment, and instead in a highly controlled environment first before risking contamination of the already degraded site.	As noted above, the pilot testing and potential use of flocculant and/or soil stabilizers has been eliminated from the Project. Any subsequent decision to pilot test or apply flocculant and/or soil stabilizer in the Pit as an interim or long-term sediment control method would require additional evaluation and CEQA review.
76	What is the exposure to people if the flocculant and/or soil stabilizer burns in a wildfire? It is a known carcinogen and can be absorbed via inhalation. Indirect exposure and contamination pathways through fire?	As noted above, the pilot testing and potential use of flocculant and/or soil stabilizers has been eliminated from the Project. Any subsequent decision to pilot test or apply flocculant and/or soil stabilizer in the Pit as an interim or long-term sediment control method would require additional evaluation and CEQA review.
77	Flocculant is good for limiting mercury contamination downstream, but what is the plan for dredging the pit lake and final disposition of the material?	As noted above, the pilot testing and potential use of flocculant and/or soil stabilizers has been eliminated from the Project. Any subsequent decision to pilot test or apply flocculant and/or soil stabilizer in the Pit as an interim or long-term sediment control method would require additional evaluation and CEQA review.

Ref #	Comment (paraphrase or verbatim)	Response
78	Time Frame: The project will "Install and maintain BMPs that will be effective for a minimum of 3 to 5 years". We understand longer timeframe is cost-prohibitive, but are there specific adaptive management plans in place? Even if cost is prohibitive, we would recommend having the plans in place.	As discussed in the IS/MND, the objectives of the proposed sediment control BMPs include reducing sediment discharge from the Pit in compliance with CVRWQCB Order No. R5-2017-0086; implementing BMPs that are effective at managing sediment and feasible to implement, and installing and maintaining BMPs that will be effective for a minimum of 3 to 5 years, with the ability to expand and modify to extend the functional life until such time as long-term remediation measures to comply with numeric effluent limits are implemented. DPR recognizes that the BMPs are not intended to serve as long-term or permanent remediation, but anticipates that the BMPs will be successful in meeting the Project objectives.
79	Hydrology and Water Quality: "The Project would have no effect on groundwater supplies or groundwater recharge in a manner that could impede sustainable groundwater management." How is this known? No data presented on groundwater. Do sediments in the pit lake leech materials/have any studies been done on groundwater mercury or other metals, and could this project have a positive or negative impact on those levels? Any data or discussion of this would be appreciated.	Available data indicates that permeability of sediments underlying the Pit floor are very low, ranging from 6.4E-08 to 1.0E-05 centimeters per second (cm/s) and geologic data indicates that bedrock underlies much of the Pit floor sediments. Groundwater is present in sediment that has collected in the Pit during the past approximately 150 years and the sediments are causing surface water impacts, but no data available to DPR suggests that implementation of the Project BMPs would adversely affect groundwater entrained within the Pit floor sediments.
80	No discussion of monitoring direct downstream impacts. Benthic Macroinvertebrate (BMI) community composition, water quality, and substrate/habitat conditions in the humbug drainage should continue to be monitored throughout the life of the project and after. This data would also directly assess efficacy of the restoration.	Additional discussion of watershed benefits of the Project and commitments to perform baseline condition surveys and monitoring during the BMP effective period (e.g., 5 or more years) have been incorporated to the Final IS/MND. Baseline surveys and monitoring of downstream areas along Humbug Creek would include assessment of benthic macroinvertebrate communities, water quality, and habitat conditions. Please see Section 2.5.4 of the Final IS/MND for additional discussion.

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81	Several mitigation measures are proposed to limit water quality (WQ) degradation during construction (e.g. riprap along access road, protective matting, silt fencing). However, we see no mention of regular WQ monitoring throughout the construction process to ensure these measures are effective.	DPR will require the construction contractor to develop and implement a construction stormwater pollution prevention plan (Construction SWPPP). The Construction SWPPP will identify specific construction-period stormwater BMPs and will define requirements for monitoring and reporting the condition of the BMPs and sampling and reporting stormwater runoff water quality.
82	Also, these measures 'minimize' WQ degradation. How long after construction will WQ be in compliance? Day one? Weeks? Will we know how effective they were before the first big storm of the year?	Construction stormwater BMPs will be implemented during the construction phase of the Project in accordance with the Construction SWPPP, as discussed above. Once the Project BMP components are installed, the components will satisfy the non-numeric requirements of CVRWQCB Order No. R5-2017-0086 by implementing BMPs that are effective at managing sediment and feasible to implement and installing and maintaining BMPs that will be effective for a minimum of 3 to 5 years. Monitoring Pit discharge once the BMPs are installed will provide information on the BMP's sediment reduction efficacy.
83	Noise: Noise impacts are only discussed relative to human thresholds/surrounding structures, but impacts of noise on bird and other wildlife communities as well as the general "soundscape", as well as potential mitigation efforts, should be discussed. Noise should also be integrated into biological mitigation efforts.	Standard Project Requirement NOISE-1 provides requirements for construction activities to minimize construction noise levels that would serve to reduce noise exposure for people as well as bird and other wildlife communities. Additionally, biological resources project requirements and mitigation measures identified in the IS/MND include provisions for pre-construction surveys that extend beyond active construction areas to identify the potential presence of special-status species and provide for DPR-qualified biologist to designate construction exclusion zones based on factors that include construction noise.

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84	Invasive species mitigation: All equipment and tools used for project activities will be cleaned free of plant parts and soil in order to prevent the introduction and spread of invasive plants to uncontaminated areas. - in what way? Will heavy equipment be washed as well to mitigate spread of invasives?	Standard Project Requirement BIO-3 includes the specification noted in the comment that "[a]ll equipment and tools used for project activities will be cleaned free of plant parts and soil in order to prevent the introduction and spread of invasive plants to uncontaminated areas." The "all equipment" provision is applicable to heavy equipment as well as other tools and equipment that may be used during construction. Equipment will be inspected by a DPR-qualified specialist when being mobilized onsite. Specific methods by which a construction contractor would achieve weed-free equipment need not be specified in the CEQA document. Contract specifications will include a standard provision requiring, "*All construction equipment used on this project shall be clean and free of soil and plant material before arrival at the project site and before leaving the park in order to prevent invasive plant seed dispersal and potential introduction of new invasive species. Equipment when being mobilized to the site shall be inspected by a DPR Natural Resource Specialist or their designee to inspect for presence/absence of weeds.*"
85	Any inadvertent weed introductions or expansions will be treated for removal. - how? Which species and containment methods? Scotch broom in particular is highly prevalent in the work area, and prefers highly disturbed landscapes.	As potential inadvertent weed introductions are unknown, the specific methods for treatment and removal cannot presently be determined; however, the project requirement commitment to treat and remove any such introduction is considered sufficient for the purposes of CEQA review. DPR recognizes the potential occurrence of Scotch broom within the Pit and construction areas, and has refined the Project to include Scotch broom eradication provisions as a component of the habitat restoration component of the Project, as discussed in the Final IS/MND at Section 2.5.4.

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86	Alternative approach suggestions: Is there potential for other bioremediation techniques? We are aware of other experimental research being conducted at the site examining the efficacy of materials like Biochar for sequestering heavy metals. We also have conducted our own research and reviews on phytoremediation potential. The site is shown to have an active cattail ponding area and high amount of Arroyo willow. Such a site may be a candidate for phytostabilization. We recommend the plant materials be tested for heavy metal uptake with eye toward a potential harvesting plan whereby currently present vegetation (or constructed wetland vegetation) can be more effective at sequestering contaminants.	As stipulated in the NPDES Orders from the RWQCB, DPR will be identifying and evaluating additional alternatives to deploy in the future to meet the final effluent limits in the NPDES Orders. A broad array of alternatives will be evaluated including some mentioned by the commenter. The currently proposed BMPs were developed based on the requirements in the NPDES Orders and followed EPA guidance.