

**STATEMENT OF FINDINGS AND
STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE
AMERICAN RIVER WATERSHED COMMON FEATURES,
WATER RESOURCES DEVELOPMENT ACT OF 2016 PROJECT,
SACRAMENTO RIVER EAST LEVEE CONTRACT 3
SACRAMENTO, CALIFORNIA**

Introduction

The American River Watershed Common Features, Water Resources Development Act of 2016 Project (ARCF 2016 Project), Sacramento River East Levee Contract 3 (Sacramento River East Levee Contract 3 Project, herein called “The Project”) consists of the installation of approximately 10,580 cumulative feet of cutoff wall along the east levee of the Sacramento River. The Sacramento River East Levee Contract 3 Project is located in the City and County of Sacramento along the east bank of the Sacramento River within the Pocket neighborhood from just north of Cruise Way and Surfside Way, to Pocket Canal Parkway.

The purpose of the Sacramento River East Levee Contract 3 Project is to address seepage and stability issues. Seepage beneath and through segments of the levee system has been identified as a significant risk to the stability and reliability of the levee system throughout the Sacramento Area. If these levee reaches are not improved, the levee system would remain at heightened risk of failure from through-seepage and under-seepage, and much of Sacramento, including the Pocket-Greenhaven neighborhood, Interstate 5, and the California State Capitol, could be significantly damaged during a future flood event.

The Sacramento River East Levee Contract 3 Project is one component of the overall ARCF 2016 Project. Sacramento River East Levee improvements were analyzed in the American River Watershed Common Features General Reevaluation Report (ARCF GRR) Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) (State Clearinghouse (SCH) Number 2005072046). The Central Valley Flood Protection Board (Board) certified the ARCF GRR Final EIS/EIR on April 22, 2016. However, some elements of the Sacramento River East Levee Contract 3 Project were not previously analyzed because project design was not available. To address project modifications and refinements since publication of the ARCF GRR EIS/EIR, the United States Army Corps of Engineers (USACE) and the Board prepared the ARCF 2016 Project, Sacramento River East Levee Contract 3 Supplemental EIR/EA. The project design has been refined to enable preparation of the Supplemental EIR/EA to meet National

Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) requirements.

The Final Supplemental EIR/EA identified significant environmental impacts of the Sacramento River East Levee Contract 3 Project, many of which were lessened to a less-than-significant level through avoidance, minimization, and mitigation measures. However, the Final Supplemental EIR/EA still identified significant and unavoidable environmental impacts that could not be avoided or substantially lessened through mitigation measures. The significant and unavoidable impacts described in the Final Supplemental EIR/EA are no more severe than the significant and unavoidable impacts described in the ARCF GRR Final EIS/EIR.

State CEQA Guidelines Section 15091 requires a CEQA lead agency make one or more written Findings (Findings) for each significant environmental impact identified in a project's EIR. In addition, State CEQA Guidelines Section 15093 requires a CEQA lead agency to prepare a Statement of Overriding Considerations (SOC) of the specific reasons it approves a project that will result in significant effects identified in the Final EIR but not avoided or substantially lessened. As the lead agency under CEQA for the Sacramento River East Levee Contract 3 Project, the Board has prepared these Findings and SOC to comply with State CEQA Guidelines. The Findings and SOC for the Sacramento River East Levee Contract 3 Project include applicable Findings and SOC from the ARCF GRR Final EIS/EIR that apply to the Sacramento River East Levee Contract 3 Project. The Findings and SOC herein for the Sacramento River East Levee Contract 3 Project are complete.

As required by State CEQA Guidelines Section 15091(e), the custodian and location of the Final Supplemental EIR/EA and other documents or other materials which constitute the record of the proceedings are as follows:

Central Valley Flood Protection Board
Environmental Services and Land Management Branch
3310 El Camino Avenue, Suite 170
Sacramento, CA 95821

Flood Projects Branch
Department of Water Resources
3310 El Camino Ave, Annex Suite 200
Sacramento, CA 95821

Other documents included in the Sacramento River East Levee Contract 3 Project administrative record can be obtained by contacting the custodian of records identified above.

Document Organization

This document is organized into the following primary sections:

- Statement of Findings
 - Significant Impacts Reduced to a Less-Than-Significant Level
 - Significant Impacts that Cannot be Reduced to a Less-Than-Significant Level

- SOC

- Adoption of Findings and SOC by the Board

Statement of Findings

The Final Supplemental EIR/EA identifies the following significant impacts resulting from the Sacramento River East Levee Contract 3 Project. Significant impacts that can be avoided or mitigated to a less-than-significant or no impact level are presented first followed by significant and unavoidable impacts. Impacts found not to be significant have not been included. The Board, in its capacity as lead agency according to State CEQA Guidelines Section 15091, makes the following Findings for each significant environmental impact followed with a Statement of Fact, which is a brief explanation of the rationale for each Finding based on substantial evidence in the record, as required by State CEQA Guidelines Section 15091(a)(b). The Board has also adopted a separate Mitigation Monitoring and Reporting Program (MMRP) for reporting on or monitoring the changes which it has either required in the Sacramento River East Levee Contract 3 Project (the Project) or made a condition of approval to avoid or substantially lessen significant environmental effects, as required in State CEQA Guidelines 15091(d) when making Findings. Mitigation measures are not presented in their entirety in this document; see the Final Supplemental EIR/EA or the MMRP for the full text of mitigation measures.

Significant Impacts Reduced to a Less-than-Significant Level

Air Quality

Significant Impact – Potential Conflict with Air Quality Plan or Contribute Substantially to Air Quality Violation. The Project’s maximum daily and annual construction emissions would potentially exceed the Sacramento Metropolitan Air Quality Management District (SMAQMD) thresholds for nitrogen (NO_x).

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact as identified in the Final Supplemental EIR/EA.

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

Mitigation Measure AIR-1: Implement the Sacramento Metropolitan Air Quality Management District’s Basic Construction Emission Control Practices

Mitigation Measure AIR-2: Implement the Sacramento Metropolitan Air Quality Management District’s Enhanced Fugitive PM Dust Control Practices

Mitigation Measure AIR-3: Require Lower Exhaust Emissions for Construction Equipment

Mitigation Measure AIR-4: Use the Sacramento Metropolitan Air Quality Management District’s Off-site Mitigation Fee to Reduce NO_x Emissions

Vegetation and Wildlife

Significant Impact – Adverse Effects on Riparian Habitat, Forestland, and Waters of the United States (Long Term Effects on Riparian Habitat and Effects on Waters of the United States). The Project will have approximately 2.9 acres of

permanent impacts and 0.18 acres of temporary impacts to riparian forestland, causing a significant impact.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact identified in the Final Supplemental EIR/EA.

Statement of Facts – USACE will compensate for riparian and woodland habitat removal. Replacement habitat shall be created at a 2:1 ratio, in accordance with the ARCF GRR Habitat Mitigation, Monitoring, and Adaptive Management Plan. Additionally, USACE will prepare and implement a Stormwater Pollution Prevention Plan (SWPPP) and comply with the conditions of the National Pollutant Discharge Elimination System (NPDES) general stormwater permit for construction activity. A Spill Prevention Control and Countermeasures Plan would also be prepared and implemented. Implementing Mitigation Measures VEG-1 and GEO-1 will reduce or offset the Project’s long-term impact on riparian and woodland habitat to a less-than-significant level and reduce significant permanent, temporary, and short-term construction related effects on state and Federally protected waters to a less-than-significant level:

Mitigation Measure VEG-1: Compensate for Riparian and Woodland Habitat Removal

Mitigation Measure GEO-1: Acquire Appropriate Regulatory Permits and Prepare and Implement a Storm Water Pollution Prevention Plan, Spill Prevention Control and Countermeasures Plan, and Associated Best Management Practices.

Special-status Species

Significant Impact – Adverse Effect on Special-status Species: Valley Elderberry Longhorn Beetle. Approximately 143 elderberry shrubs are present along the Sacramento River in the vicinity of the Project. Because elderberry is a fast-growing plant and focused surveys were last completed in 2019, for the purposes of impact analysis it is conservatively assumed that approximately 20 elderberry shrubs may be removed during construction activities. Elderberry shrub removal will reduce available habitat and this removal, as well as construction activities in close proximity to shrubs, could result in direct or indirect impacts to Valley Elderberry Longhorn Beetle (VELB).

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact as identified in the Final Supplemental EIR/EA.

Statement of Facts – USACE will implement U.S. Fish and Wildlife Service (USFWS) avoidance, minimization, and compensation measures for VELB as described in the 2017 *Framework for Assessing impacts to the Valley Elderberry Longhorn Beetle*. Removal of elderberry shrubs will be avoided to the extent practicable. Protective buffers will be established around elderberry shrubs and construction activity excluded from these areas. Dormant elderberry shrubs will be transplanted. A qualified biologist will be present for the duration of the transplanting activities to assure compliance with avoidance and minimization measures. Construction personnel will receive worker awareness training to ensure that workers recognize elderberry shrubs and VELB. Compensatory mitigation will be provided by USACE at ratios ranging from 1:1 to 3:1. Affected areas will be restored with the appropriate native plants. Implementing Mitigation Measure VELB-1 will reduce or offset the Project’s impact to VELB to a less-than-significant level:

Mitigation Measure VELB-1: Implement Current USFWS Avoidance, Minimization, and Compensation Measures for Valley Elderberry Longhorn Beetle

Significant Impact – Adverse Effect on Special-status Species: Burrowing Owl.

Burrowing owl would be significantly impacted due to effects of construction activities. Nests and burrows could be disturbed or destroyed during construction, causing loss of eggs or young or forcing nest abandonment.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EIR/EA.

Statement of Facts – Prior to the implementation of construction, surveys would be conducted to determine presence of burrows or signs of burrowing owl. A habitat assessment and any proceeding surveys would be conducted in accordance with Appendix D of the California Department of Fish and Wildlife (CDFW) 2012 *Staff Report on Burrowing Owl Mitigation*. If burrowing owls are observed, coordination with CDFW would be initiated to determine the appropriate actions to take or any additional avoidance and minimization measures that may need to occur. These measures may include creating a protective buffer around occupied burrows during the duration of the breeding/juvenile rearing season and biological monitoring of active burrows to ensure that construction activities do not result in adverse effects on nesting burrowing owls. If potential burrows are present, all on-site construction personnel would be instructed on the potential presence of burrowing owls, identification of these owls and their habitat,

and the importance of minimizing impacts on burrowing owls and their habitat. Implementing Mitigation Measure BUOW-1 will reduce or offset the Project's impact to burrowing owl to a less-than-significant level:

Mitigation Measure BUOW-1: Implement Measures to Protect Burrowing Owl

Significant Impact – Adverse Effect on Special-status Species: Swainson's Hawk and Other Special-status Birds. Swainson's hawk, Western yellow-billed cuckoo, white-tailed kite, purple martin, and other common migratory birds would be significantly impacted due to effects of construction activities. Nests and burrows could be disturbed or destroyed during construction, causing loss of eggs or young or forcing nest abandonment.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EIR/EA.

Statement of Facts - USACE will conduct pre-construction surveys to determine if nests are present within the Project area. Surveys will be conducted during the nesting season. If migratory bird nests or burrows are discovered, USACE will coordinate with CDFW to implement a protective buffer for the nest or burrow to be determined upon the species type, nest or burrow stage, type and intensity of Project disturbance in the nest or burrow vicinity, and other variables that may affect vulnerability of the nest or burrow. Before on-site project activities begin, all construction personnel shall participate in a worker environmental awareness program. For Swainson's hawk, surveys will be conducted in accordance with survey guidelines described in the 2000 CDFW *Swainson's Hawk Technical Advisory Committee* publication. If active nests are found within 0.5 miles of construction activities, consultation will occur with CDFW regarding further action including establishing buffer areas, mitigation, and monitoring. Implementing Mitigation Measure BIRD-1 will reduce or offset the Project's impact to Swainson's hawk and other special-status birds to a less-than-significant level:

Mitigation Measure BIRD-1: Implement Measures to Protect Nesting Migratory Birds

Significant Impact – Adverse Effect on Special-status Species: Special-status Bats. Special-status bats would be significantly impacted due to effects of construction activities on bat maternity roosts. Bat maternity roosts could be disturbed or destroyed during construction, causing loss of young or forcing roost abandonment.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EIR/EA.

Statement of Facts - Wherever feasible, USACE will conduct construction activities outside of the pupping season for bats. USACE will conduct pre-construction surveys to determine if bat maternity roosts are present within the Project area. Trees indicated for removal that are not identified as suitable bat habitat can be removed using normal methods. If removal of trees with suitable roost cavities and/or dense foliage cover must occur during the bat pupping season (April 1 through August 31), surveys for active maternity roosts shall be conducted by a qualified biologist within 30 days of removal, from dusk to dark. If a special-status bat maternity roost is located, appropriate buffers of at least 100 feet radius will be established, and no project activity shall commence within the buffer areas until the end of the pupping season (September 1) or until the designated monitor confirms the maternity roost is no longer active. If construction activities must occur within the buffer, the biological monitor must monitor activities either continuously or periodically during the work, which will be determined by the biological monitor. The biological monitor would be empowered to stop activities that, in their opinion, would cause unanticipated adverse effects on special status bats. If construction activities are stopped, the biological monitor would inform USACE, and CDFW would be consulted to determine appropriate measures to implement to avoid adverse effects. Regardless of season, trees containing cavities, cracks, or crevices that may be suitable bat habitat will be trimmed using a two-phase removal system conducted to allow bats to vacate these features. Such trees will be removed under the supervision of the designated monitor. The first day will include removal of limbs and branches that do not contain roosting habitat features, as determined and monitored by the designated biological monitor. On the second day, remove the remainder of tree by gently lowering the tree to the ground, under the supervision of the biological monitor. If it is not feasible to remove a tree using the two-phased approach, limbs containing habitat features should be removed and gently lowered to the ground in a location where they are not likely to be crushed or disturbed by the felling of the tree, and left undisturbed for the next 48 hours. For any standing dead trees or snags with suitable habitat features, these can be removed over a single day by gently lowering the tree or snag to the ground. The tree or snag should be left undisturbed on the site for the next 48 hours. Implementing Mitigation Measure BAT-1 will reduce or offset the Project's impact to special-status bats to a less-than-significant level:

Mitigation Measure BAT-1: Implement Measures to Protect Maternity Roosts of Special-status Bats

Climate Change

Significant Impact – Temporary, Short-term Generation of Greenhouse Gas Emissions. Emissions from construction equipment and worker vehicles would include carbon dioxide (CO₂) and other “greenhouse gases” (GHGs) that can contribute to climate change. Estimated emissions of GHGs, expressed as CO₂ equivalents (CO₂e), would exceed SMAQMD’s threshold of 1,100 metric tons CO₂e per year during the estimated construction period.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EIR/EA.

Statement of Facts - A GHG emission reduction plan will be implemented. Mitigation will require efficient operation and maintenance of construction equipment engines, minimization of idling equipment when not in use, and enhanced emissions reductions for construction equipment used at the Project site. USACE will purchase carbon credits from programs approved by SMAQMD to mitigate CO₂e emissions in excess of 1,100 metric tons per year. At least 75% of construction waste and demolition debris will be recycled, and at least 20% of the building materials and imported soil will be purchased within 100 miles of the Project site. Implementing Mitigation Measure GHG-1 will reduce or offset Project impacts from temporary, short-term generation of GHG emissions to a less-than-significant level:

Mitigation Measure GHG-1: Implement GHG Reduction Measures

Cultural Resources

Significant Impact – Potential Damage to or Destruction of Previously Undiscovered Archaeological Sites or Tribal Cultural Resources. Cultural resource investigations have identified archaeological resources and potential Tribal Cultural Resources in the Area of Potential Effects (APE) of the Project. Based on these known resources and other available information, other areas in the APE are also potentially sensitive for unknown buried archaeological resources and Tribal Cultural Resources and there remains the possibility that previously unknown archaeological resources or Tribal Cultural Resources could be discovered during Project construction and inadvertently damaged by earthmoving activities.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EIR/EA.

Statement of Facts – Implementing Mitigation Measures CR-2, CR-3, CR-4, and CR-5 will reduce the potential for a significant effect resulting from inadvertent damage to or destruction of presently undocumented archaeological resources and Tribal Cultural Resources because appropriate treatment and protection measures must be implemented. Implementing Mitigation Measures CR-2, CR-3, CR-4, and CR-5 will reduce or offset the Project’s potential impacts to undocumented archaeological resources and Tribal Cultural Resources to a less-than-significant level:

Mitigation Measure CR-2: Prepare an Archaeological Discovery Plan and an Archaeological Monitoring Plan

Mitigation Measure CR-3: Conduct Cultural Resources Awareness Training

Mitigation Measure CR-4: Implement Procedures for Inadvertent Discovery of Cultural Material

Mitigation Measure CR-5: In the Event that Tribal Cultural Resources are Discovered Prior to or During Construction, Implement Procedures to Evaluate Tribal Cultural Resources and Implement Avoidance and Minimization Measures to Avoid Significant Adverse Effects

Significant Impact – Damage to or Destruction of Human Remains during Construction. The Project area and vicinity are known to contain significant prehistoric archaeological sites, including sites with human burials. Native American human remains could be encountered during earthmoving activities associated with the Project.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EIR/EA.

Statement of Facts – Implementing Mitigation Measure CR-6 would reduce the potential for a significant effect resulting from inadvertent damage to or destruction of presently undocumented human remains because it requires that if human remains are discovered during Project-related construction activities, disturbances in the area of the find must be halted and appropriate treatment and protection measures must be implemented, all in consultation with the National American Heritage Commission, most likely descendant, and landowners, in compliance with California Health and Safety Code Section 7050 et seq. and PRC Section 5097.9 et seq. Implementing Mitigation

Measure CR-6 will reduce the Project's potential impacts related to damage or destruction of human remains to a less-than-significant level:

Mitigation Measure CR-6: Implement Procedures for Inadvertent Discovery of Human Remains.

Geological Resources

Significant Impact – Potential Temporary, Short-term Construction-related Erosion. Constructing the Project would result in the temporary and short-term disturbance of soil and could expose disturbed areas to storm events. Rainfall of sufficient intensity could dislodge soil particles from the soil surface and generate runoff and localized erosion. In addition, soil disturbance during summer could result in substantial loss of topsoil because of wind erosion.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EIR/EA.

Statement of Facts – USACE will develop and implement a Storm Water Pollution Prevention Program (SWPPP) and a Spill Prevention Control and Countermeasures Plan (SPCCP) including required best management practices (BMPs) to reduce construction-related erosion effects to a less-than-significant level. All workers will be properly trained on requirements and procedures to properly install and maintain BMPs specified in the SWPPP. Implementing Mitigation Measure GEO-1 will reduce the Project's potential short-term construction erosion impacts to a less-than-significant level:

Mitigation Measure GEO-1: Acquire Appropriate Regulatory Permits and Prepare and Implement a Storm Water Pollution Prevention Plan, Spill Prevention Control and Countermeasures Plan, and Associated Best Management Practices

Hazardous Wastes and Materials

Significant Impact – Possible Exposure of People and the Environment to Existing Hazardous Materials, Including Cortese-listed Sites. There is a potential that earthmoving activities associated with project activities could encounter contaminated soil or groundwater, and/or underground utility infrastructure containing hazardous substances, which could possibly expose people or the environment to hazardous materials

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EIR/EA.

Statement of Facts – USACE will require testing and investigation to identify and address contaminated sites prior to construction. If hazardous materials are found, they will be disposed of in accordance with all Federal, State, and local regulations at an approved disposal site. Implementing Mitigation Measure HAZ-1 will reduce potential significant impacts to a less-than significant level:

Mitigation Measure HAZ-1: Conduct Phase II Investigations as Needed

Water Quality and Groundwater Resources

Significant Impact – Violate Any Water Quality Standards or Waste Discharge Requirements or Otherwise Substantially Degrade Surface or Groundwater Quality, Result in Substantial Erosion or Siltation On- or Offsite, or Conflict with or Obstruct Implementation of a Water Quality Control Plan or Sustainable Groundwater Management Plan. Potential dewatering to facilitate construction activities could result in erosion or release of sediments to surface waters. Excavation could expose the water table creating a direct path to groundwater. Drying beds used to contain soil displaced during jet grouting could escape if drying beds are damaged. Earth moving activities during construction could lead to erosion or siltation. Construction activities would employ equipment that uses potentially harmful products such as fuels, lubricants, hydraulic fluids, and coolants, all of which can be toxic to fish and other aquatic organisms. This equipment could be a direct source of contamination if safe equipment and construction practices are not properly followed. An accidental spill or inadvertent discharge from such equipment could directly affect the water quality of the river or water body in the Project area, or groundwater, and indirectly affect regional water quality of the river or water body. Additionally, earth moving construction activities could result in erosion and/or release sediment into surface water.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EIR/EA.

Statement of Facts – USACE will prepare and implement a SWPPP and comply with the conditions of the NPDES general stormwater permit for construction activity. USACE shall obtain a Low Threat Discharge and Dewatering NPDES permit or an Individual Permit from the Central Valley Regional Water Quality Control Board (RWQCB) if the Project's dewatering is not covered under the RWQCB's NPDES

Construction General Permit. Workers will be trained on the installation method of the BMPs addressed in the SWPPP. A SPCCP would also be prepared and implemented. Implementing Mitigation Measures GEO-1 and HWQ-1 will reduce impacts to surface water quality to a less-than-significant level:

Mitigation Measure GEO-1: Acquire Appropriate Regulatory Permits and Prepare and Implement a Storm Water Pollution Prevention Plan, Spill Prevention Control and Countermeasures Plan, and Associated Best Management Practices

Mitigation Measure HWQ-1: Obtain Appropriate Discharge and Dewatering Permit and Implement Provisions for Dewatering

Noise

Significant Impact – Potential Increase in Ambient Noise Levels or Exposure of Sensitive Receptors to Excessive Noise or Vibration. The Project would generate construction noise and vibration from equipment operating at each work location, and from the transport of construction workers, construction materials, and equipment to and from each work location.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EIR/EA.

Statement of Facts – USACE would require construction contractors to implement measures at each work site to avoid and minimize construction noise and vibration effects on sensitive receptors. Prior to the start of construction, a noise control plan would be prepared to identify feasible measures to reduce construction noise, when necessary. These actions could include scheduling louder activities for daytime hours, using less noisy equipment where available, locating and routing activities to minimize effects on sensitive receptors. Implementing Mitigation Measure NOI-1 will reduce significant impacts related to construction noise and construction traffic noise to a less-than-significant level:

Mitigation Measure NOI-1: Implement Measures to Reduce Construction Noise and Vibration Effects

Transportation and Circulation

Significant Impact – Conflict with a Program, Plan, or Ordinance: Decreased Performance or Safety of Alternative Modes of Transportation. Project construction would require temporary road and trail closures.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EIR/EA.

Statement of Facts – USACE will provide public notice in advance of closures and detours/routes and will require the provision of detour signs indicating the location of alternate routes that could be used by bicyclists or pedestrians. Implementing Mitigation Measure TR-1 will reduce the significant effect associated with alternative modes of transportation to a less-than-significant level:

Mitigation Measure TR-1: Prepare and Implement a Traffic Control and Road Maintenance Plan

Significant Impact – Increased Hazards Due to a Design Feature or Incompatible Uses. Construction of the Project would potentially increase hazards due to truck traffic, road and lane closures, and pavement conditions.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EIR/EA.

Statement of Facts – USACE will require traffic control and road maintenance actions to reduce hazards. Implementing Mitigation Measure TR-1 will reduce the significant effect associated with potentially increased hazards to a less-than-significant level:

Mitigation Measure TR-1: Prepare and Implement a Traffic Control and Road Maintenance Plan

Public Utilities and Service Systems

Significant Impact – Potential Disruption of Utility Service. Project construction activities, including grading and excavation, could inadvertently damage identified and unidentified utility infrastructure and facilities. In addition, required relocation of existing utilities could result in service interruptions.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EIR/EA.

Statement of Facts – USACE will coordinate with utility service providers to minimize utility interruptions and provide notification to consumers should utilities be interrupted. A response plan will be prepared and provided that will address accidental service interruptions and will ensure efficient response and shorten potential outages. A component of the response plan will require worker education training to respond to accidental damage to a utility line. Using field surveys and the Underground Service Alert services, identify locations of buried utilities in the Project area and clearly mark utility buried infrastructure. Implementing Mitigation Measure UTL-1 will reduce the potential significant impacts to a less-than significant impact:

Mitigation Measure UTL-1: Verify Utility Locations, Coordinate with Affected Utility Owners/Providers, Prepare and Implement a Response Plan, and Conduct Worker Training with Respect to Accidental Utility Damage

Significant Impacts that Cannot be Reduced to a Less-than-Significant Level

Visual Resources

Significant and Unavoidable Impact – Changes in Scenic Vistas and Existing Visual Character. Temporary visual effects caused by construction activities for the Project along the Sacramento River were determined to be significant and unavoidable. The ARCF GRR Final EIS/EIR also found that maintaining a landslide levee maintenance corridor would cause long-term visual effects due to the corridor being adjacent to existing residential backyards and removal of landscaping from the maintenance corridor degrading current visual character of individual properties.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact identified in the Final Supplemental EIR/EA. However, the impact remains significant and unavoidable. In accordance with Section 15091(a)(3) of the State CEQA Guidelines, the Board concludes that this significant and unavoidable impact is acceptable in light of the project benefits set forth in the “Statement of Overriding Considerations.”

Statement of Facts – No feasible mitigation measures were identified to reduce short-term visual effects. The presence of construction crews and equipment would degrade the existing visual character and obstruct scenic views, therefore causing short-term visual effects. It is infeasible to construct the Project without construction crews and equipment. Screening views of the construction crews and equipment would be costly, induce their own significant impacts on visual quality, and therefore would not reduce this significant and unavoidable impact. The ARCF GRR Final EIS/EIR also included

installation of planting berms to address impacts that would not occur under the Project. This requirement was adopted as a Mitigation Measure in the ARCF GRR Final EIS/EIR and MMRP, but there are no other feasible mitigation measures available to further avoid or reduce this impact.

Vegetation and Wildlife

Significant and Unavoidable Impact – Adverse Effects on Riparian Habitat and Waters of the United States (Short-term Effects on Riparian Habitat). Project construction would impact forestland and riparian habitat. Construction activities would require the removal of riparian vegetation and native and non-native trees within the Project area. This would be a temporary significant impact.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact identified in the Final Supplemental EIR/EA. However, the impact remains significant and unavoidable. In accordance with Section 15091(a)(3) of the State CEQA Guidelines, the Board concludes that the significant and unavoidable impact is acceptable in light of the project benefits set forth in the “Statement of Overriding Considerations.”

Statement of Facts – A total of approximately 2.9 acres of riparian habitat would be permanently removed during construction of the Project. USACE will provide compensatory mitigation that includes the creation or restoration of lost riparian habitat at a 2:1 ratio; approximately 5.8 acres of riparian habitat will be planted at the Beach Stone Lakes Mitigation Site. However, because it would take many years for compensation habitat to provide the value of habitat that would be removed, the short-term habitat loss would remain significant and unavoidable, as described in the ARCF GRR Final EIS/EIR. Implementing Mitigation Measure VEG-1 will reduce or offset the Project’s long-term impact on riparian habitat, but there are no other feasible mitigation measures available to further avoid or reduce this impact:

Mitigation Measure VEG-1: Compensate for Riparian Habitat Removal

Cultural Resources

Significant and Unavoidable Impact – Damage to or Destruction of Known Prehistoric-period Archaeological Sites and Tribal Cultural Resources. Cultural resources investigations have identified archaeological resources and potential Tribal Cultural Resources within the Project. Levee improvement activities would include substantial ground disturbance, such as excavation, soil removal, trenching, construction of earthen berms, levee crown degradation and reconstruction for cutoff

wall installation, grading, and use of staging areas. These earthmoving activities could result in damage to or destruction of known prehistoric-period archaeological sites and Native American-identified Tribal Cultural Resources.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EIR/EA. However, the impact remains significant and unavoidable. In accordance with Section 15091(a)(3) of the State CEQA Guidelines, the Board concludes that the significant and unavoidable impact is acceptable in light of the project benefits set forth in the “Statement of Overriding Considerations.”

Statement of Facts – For Historic Properties which would be adversely affected by implementation of the Project, USACE shall consult with the State Historic Preservation Officer and interested Native American Tribes in accordance with the ARCF Programmatic Agreement and associated Historic Properties Management Plan to develop a Historic Properties Treatment Plan (HPTP). The HPTP shall specify measures that will be implemented to resolve the adverse effects to the Historic Properties and shall constitute mitigation for the effects to these resources. USACE shall implement the terms described in the HPTP. Implementing Mitigation Measure CR-1 will reduce the level of impact by requiring USACE to implement an agreed-upon process to resolve adverse effects, however, this effect will remain significant and unavoidable, as described in the ARCF GRR Final EIS/EIR:

Mitigation Measure CR-1: Resolve Adverse Effects through Programmatic Agreement and Historic Properties Treatment Plan

Recreation

Significant and Unavoidable Impact – Temporary and Short-term Changes in Recreational Opportunities during Project Construction Activities. Project construction would require temporary closures of bicycle and pedestrian facilities, including those along the levee. Access roads near the parkway would be used by trucks as haul routes causing heavier traffic and possible disruption/detours to pedestrian and bicycle trails and boat launches. Recreational experiences may be degraded by construction activities going on within the area. The Project would have short-term, significant, and unavoidable effects on recreation.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact identified in the Final Supplemental EIR/EA. However, the impact remains significant

and unavoidable. In accordance with Section 15091(a)(3) of the State CEQA Guidelines, the Board concludes that the significant and unavoidable impact is acceptable in light of the project benefits set forth in the “Statement of Overriding Considerations.”

Statement of Facts – Short-term effects will be reduced by preparing and implementing bicycle and pedestrian detours, providing the public with information regarding detours, closures of recreation sites, alternative access routes and recreation sites, and repairing construction-related damage to pre-project conditions. However, even with the mitigation measures, the short-term impact on recreation would remain significant and unavoidable, as disclosed in the ARCF GRR Final EIS/EIR. Implementing Mitigation Measure REC-1 will reduce or offset the temporary and short-term impact on recreational opportunities during Project construction activities, but there are no other feasible mitigation measures available to further avoid or reduce this impact:

Mitigation Measure REC-1: Implement Bicycle and Pedestrian Detours, Provide Construction Period Information on Facility Closures, and Coordinate with the City of Sacramento to Repair of Damage to Bicycle Facilities

Transportation and Circulation

Significant and Unavoidable Impact – Increase in Traffic Volumes or Decrease in Capacity along Designated Roadways in the Project Area. Project construction would result in a substantial number of haul truck trips on local roadways and traffic controls during construction activities. Temporary closures on pedestrian and bicycle trails would also be required to accommodate construction activities. The Project would have a significant impact and make a cumulatively considerable incremental contribution to a significant cumulative impact on local roadways.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact identified in the Final Supplemental EIR/EA. However, the impact remains significant and unavoidable. In accordance with Section 15091(a)(3) of the State CEQA Guidelines, the Board concludes that the significant and unavoidable impact is acceptable in light of the project benefits set forth in the “Statement of Overriding Considerations.”

Statement of Facts – USACE will require the contractor to prepare a Traffic Control and Road Maintenance Plan prior to the start of Project-related construction activities. The contractor will limit lane closures during peak commuting hours and implement detour(s) or temporary roads to accommodate traffic flows. Notice of lane upcoming construction

activities will be provided in advance by at least one week so motorists may plan accordingly for travel in affected areas during these times. Existing traffic patterns will be restored at the conclusion of construction, and roads affected by construction-related activities will be repaired. Implementing Mitigation Measure TR-1 will reduce the significant impact; however, no other feasible mitigation measures are available and Project construction still has the potential to substantially increase traffic in relation to existing traffic load and capacity of the roadway system, and has the potential to substantially disrupt the flow of traffic and cause delay, but there are no other feasible mitigation measures available to further avoid or reduce this impact:

Mitigation Measure TR-1: Prepare and Implement a Traffic Control and Road Maintenance Plan

Findings Regarding Alternatives to the Project

Section 15126.6 of the State CEQA Guidelines states:

a) Alternatives to the 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.

State CEQA Guidelines Sections 15091(a)(3) and (b) provide that if a lead agency finds that specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the Final EIR, the Findings shall be supported by substantial evidence in the record. The Findings below regarding environmental effects identify some impacts that are potentially significant and unavoidable even after the implementation of all feasible mitigation measures. This section provides additional detail and Findings supporting those determinations.

Objectives of the Sacramento River East Levee Contract 3 Project:

- Reduce the chance of flooding and damages, once flooding occurs, and improve public safety, preparedness, and emergency response.
- Reduce maintenance and repair requirements by modifying the flood management systems in ways that are compatible with natural processes.
- Integrate the recovery and restoration of key physical processes, self-sustaining ecological functions, native habitats, and species.

- Ensure that technically feasible and cost-effective solutions are implemented to maximize the flood risk reduction benefits given the practical limitations of applicable funding sources.

The ARCF GRR Final EIS/EIR evaluated two project alternatives which attain all or most of these basic objectives, and the No-Action Alternative that does not meet any of the basic objectives. Other project alternatives were considered but rejected as infeasible because the levee system within the project area will remain with a high risk of failure unless they are fortified. Any alternative must fix the levees in place and because of the large number of houses immediately adjacent to most of the levee within the project area, any type of setback levee or levee modifications that requires working outside of the existing levee footprint in the project area will require removing homes and be infeasible. Therefore, there are no other feasible alternatives available to meet all or most of the Sacramento River East Levee Contract 3 Project objectives, and significant and unavoidable impacts cannot be further reduced with mitigation measures because all feasible mitigation measures for reducing significant and unavoidable impacts will be implemented.

The alternatives covered in the ARCF GRR Final EIS/EIR would have similar levels of impact and result in similar significant and unavoidable impacts after all feasible mitigation is applied as presented in these Findings.

The Final Supplemental EIR/EA includes the Proposed Action Alternative and the No Action Alternative. The Proposed Action Alternative is a refinement of Alternative 2 in the ARCF GRR Final EIS/EIR and would have similar significant and unavoidable impacts after all feasible mitigation is applied as presented in these Findings.

Based on the ARCF GRR Final EIS/EIR, the Final Supplemental EIR/EA, and the entire record, the Board makes the following Findings with regard to alternatives to the Sacramento River East Levee Contract 3 Project:

1. To potentially eliminate or lessen the significance of the Sacramento River East Levee Contract 3 Project's significant and unavoidable impacts, the Project would need to be implemented in another location, which is infeasible to address the Sacramento River East Levee Contract 3 Project's needs and meet any of the Project's objectives.
2. The social and economic benefits of the Sacramento River East Levee Contract 3 Project outweigh the significant and unavoidable effects of the Project because the Sacramento River East Levee Contract 3 Project will reduce the risk of flooding for a

major portion of the Sacramento metropolitan area that currently has a high risk of flooding.

3. None of the alternatives examined in the ARCF GRR Final EIS/EIR and the Supplemental EIR/EA, or any other potential alternative for reducing flood risk within the Sacramento River East Levee Contract 3 Project area, would be a feasible means to avoid or eliminate the remaining significant and unavoidable effects.

4. Alternative 2 as described in the ARCF GRR Final EIS/EIR, while still having significant and unavoidable impacts, has a greater benefit to the environment while meeting most of the Sacramento River East Levee Contract 3 Project objectives.

5. The No Action Alternative assumes that no work would be completed by USACE and the City of Sacramento and surrounding areas (study area) would continue to be at a very high risk of levee failure and subsequent flooding of a major portion of the Sacramento Metropolitan area. This area includes the California State Capitol and other significant infrastructure. The No Action Alternative is inconsistent with the objectives of the Sacramento River East Levee Contract 3 Project and leaves the study area at an unacceptable level of risk due to flooding. The No Action Alternative is not a feasible means to avoid risk to avoid the residual significant and unavoidable effects of the Sacramento River East Levee Contract 3 Project.

6. Alternative 1 as described in the ARCF GRR Final EIS/EIR includes fix-in-place levee remediation measures to address seepage, slope stability, erosion, and overtopping concerns identified for the American and Sacramento River, Natomas East Main Drain Canal, and Arcade, Dry/Robla, and Magpie Creek levees. This alternative has greater environmental impacts due to the levee raises and fewer environmental benefits. Alternative 1 has significant and unavoidable impacts to vegetation and wildlife, recreation, transportation and circulation, visual resources, and cultural resources. Alternative 1 is not a feasible means to minimize flood risk and meet all or most of the ARCF 2016 Project objectives and avoid or minimize the residual significant and unavoidable environmental effects of the ARCF 2016 Project.

7. Alternative 2 as described in the ARCF GRR Final EIS/EIR includes all levee improvements discussed in Alternative 1, except levee raises along the Sacramento River will be included to a lesser extent. Instead of the full extent of levee raises, the Sacramento Weir and Bypass will be widened to divert more flows into the Yolo Bypass. Alternative 2 as described in the ARCF GRR Final EIS/EIR has significant and unavoidable impacts to vegetation and wildlife, recreation, transportation and circulation, visual resources, and cultural resources.

8. Since the Board certified the ARCF GRR Final EIS/EIR on April 22, 2016 and selected Alternative 2, USACE and the Board have worked to refine the design for the Sacramento River East Levee Contract 3 Project. The Sacramento River East Levee Contract 3 Project has been refined and adjusted to further reduce significant and significant and unavoidable impacts compared to the significant and significant and unavoidable impacts identified in the ARCF GRR Final EIS/EIR.

Statement of Overriding Considerations

The Final Supplemental EIR/EA concludes that implementing the Sacramento River East Levee Contract 3 Project would result in significant and unavoidable environmental impacts that cannot be avoided or substantially lessened with the incorporation of all feasible mitigation measures or implementation of other feasible alternatives. This SOC is therefore necessary to comply with State CEQA Guidelines Section 15093.

In accordance with State CEQA Guidelines Section 15093, Board balanced the economic, social, technological, and other benefits of the Sacramento River East Levee Contract 3 Project against its significant and unavoidable environmental risks, and has found that the benefits of the Sacramento River East Levee Contract 3 Project outweigh the significant and unavoidable adverse environmental effects to visual resources, vegetation and wildlife, cultural resources, recreation, and transportation and circulation that cannot be feasibly mitigated to less-than significant levels. Overriding considerations that support the Sacramento River East Levee Contract 3 Project approval are as follows:

1. The purpose of the Sacramento River East Levee Contract 3 Project is to reduce flood risk to the Sacramento area. Flood risk reduction is necessary to provide economic, social, and other benefits, as flood events are often uncontrolled and can result in deaths or injuries, damage to property and infrastructure, and release of environmental contaminants.

2. Sacramento is identified as one of the most at-risk communities in the nation for flooding, motivating the need to reduce this risk through numerous flood damage reduction measures. The existing system leaves the highly urbanized Sacramento area at an unacceptably high level of flood risk. The Sacramento River East Levee is a key feature for flood risk management for Sacramento.

3. Major storms in 1986 and 1997, as well as significant rainfall in recent years, have caused record flood flows in the American River watershed and high lake levels in

Folsom Reservoir. Outflows from Folsom Dam, together with high flows in the Sacramento River, caused the river stages to exceed the designed safety margin of levees protecting the City of Sacramento. Levee failure along the lower American River and Sacramento River could result in flooding of more than 100,000 acres, affecting a population of up to 900,000, with damages totaling up to \$58 billion, depending on the magnitude of the event. A large flood could also result in disruption of drinking water supplies with statewide impacts.

4. The Sacramento River East Levee Contract 3 Project incorporates all feasible means to minimize, avoid, and mitigate for potential significant and significant and unavoidable adverse impacts on the environment.

5. Flood risk management benefits potentially provided by the Sacramento River East Levee Contract 3 Project outweigh the significant and unavoidable adverse environmental effects of the Project. In light of these considerations, the significant and unavoidable impacts on visual resources, vegetation and wildlife, cultural resources, recreation, and traffic and circulation are considered acceptable. The Board finds that these benefits override the potential significant and unavoidable impacts resulting from the Sacramento River East Levee Contract 3 Project, including all construction, operations, and maintenance components.

ADOPTION OF FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS BY THE BOARD

The Board hereby formally adopts the Findings and SOC set forth herein.

The Board has weighed the impacts and benefits of the Sacramento River East Levee Contract 3 Project and find that the benefits of implementing the Sacramento River East Levee Contract 3 Project outweigh the significant and unavoidable environmental impacts.

ORIGINAL SIGNED BY:

By: _____ Date: October 22, 2021
William H. Edgar
President

ORIGINAL SIGNED BY:

By: _____ Date: October 22, 2021
Jane Dolan
Secretary