

## MITIGATED NEGATIVE DECLARATION FOR DELTA-MENDOTA CANAL SUBSIDENCE CORRECTION PROJECT

**LEAD AGENCY:** San Luis & Delta-Mendota Water Authority  
PO Box 2157  
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**AVAILABILITY OF DOCUMENTS:** The initial study for this mitigated negative declaration is available for review at: <https://sldmwa.org/dmc-subsidence-project/>. Questions or comments regarding this mitigated negative declaration and initial study may be addressed to:

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**Project Description:** Since its original construction, the Delta-Mendota Canal (DMC) has been affected by land subsidence which has reduced the capacity the DMC can convey while operating in accordance with Reclamation Safety Standards and Guidelines. These limits on conveyance capacity have introduced operational constraints that can affect deliveries to south-of-Delta Central Valley Project (CVP) contractors. The continued, safe, and reliable operation of the DMC is critical to the users that it serves and the economies that it supports. The proposed project would restore the designed conveyance capacity of the DMC (a maximum flow capacity of 4,600 cfs at the origin and a minimum flow capacity of 3,210 cfs at the terminus) by (1) raising deficient concrete lining segments and bank segments to meet the minimum freeboard requirements; (2) installing riprap for erosion protection to stabilize the banks along the earthen-lined segment; (3) replacing bridges and pipeline crossings that do not have enough clearance above water surface elevation to meet minimum required clearings; (4) raising the gates of check structures and wasteways to design level and modify impacted structures; and (5) evaluating existing drainage structures to modify them for safe passage of stormwater.

**Project Location:** Proposed project effects would occur within Alameda, San Benito, Santa Clara, San Joaquin, Stanislaus, Merced, and Fresno counties (see Figure 1 below).

**Findings:** An initial study was prepared to assess the proposed subsidence correction project's potential effects on the environment and the significance of those impacts. Based on the initial study, the San Luis & Delta-Mendota Water Authority (SLDMWA) has determined that the proposed project would not have a significant impact on the environment. This conclusion is supported by the following findings:

- The project would result in beneficial impacts on south-of-Delta CVP agricultural water supply.
- The project would result in less than significant impacts on water supply, air quality, greenhouse gas emissions, visual resources, noise and vibration, recreation, and public utilities and power.
- The project will result in less-than-significant impacts after mitigation to water quality, traffic and transportation, hazards and hazardous materials, biological resources, cultural resources, geology, and soils.

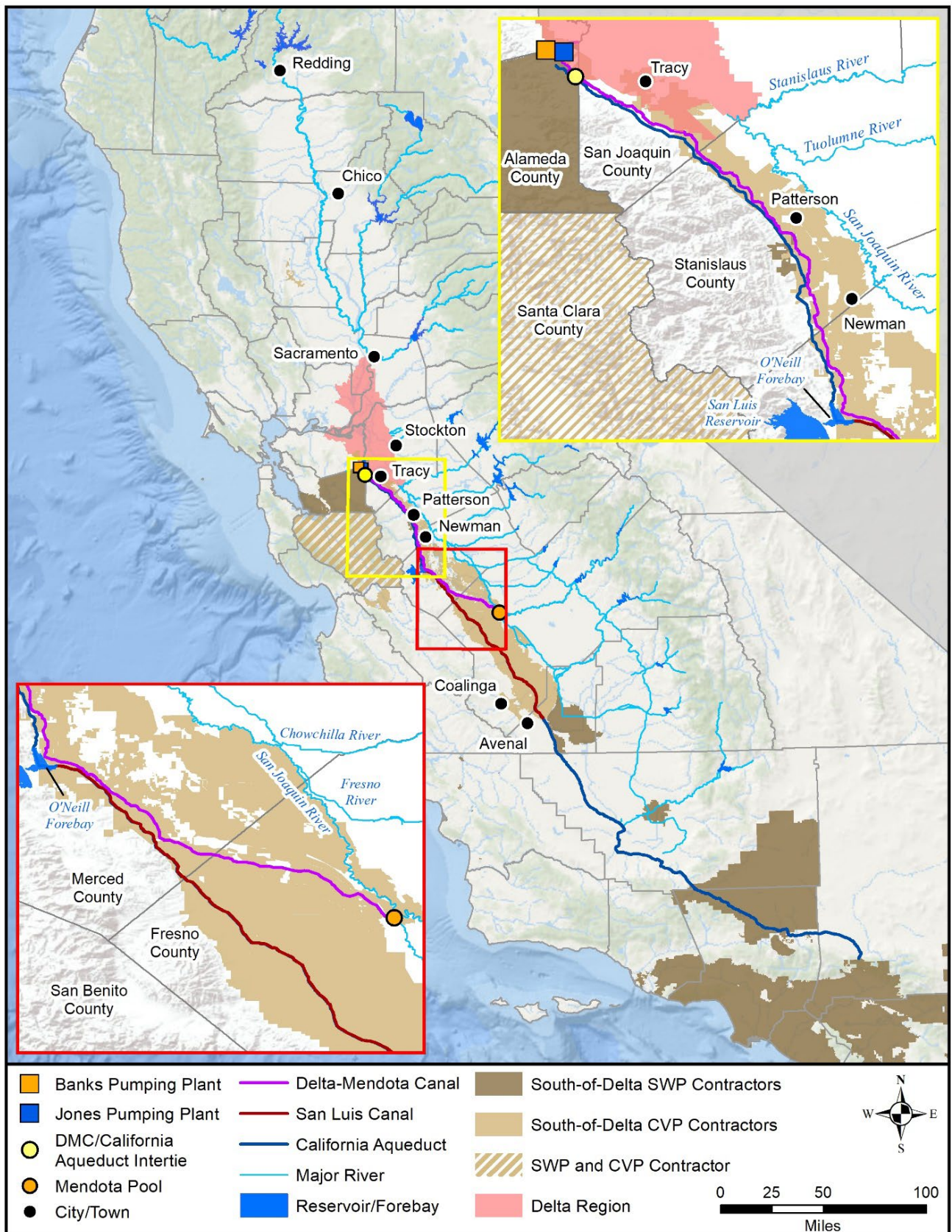


Figure 1. Project Area

**Mitigation Measures:** The initial study incorporated the following mitigation measures:

***Mitigation Measure WQ-1: Prepare Site-Specific Stormwater Pollution Prevention Plan (SWPPP)***

The objectives of the SWPPP would be to: (1) identify pollutant sources that may affect the quality of stormwater associated with construction activity; and (2) identify, construct, and implement stormwater pollution prevention measures to reduce pollutants in stormwater discharges during and after construction. The SWPPP would also include details of how the sediment and erosion control practices, referred to as BMPs would be implemented. The implementation of the SWPPP would comply with state and federal water quality regulations.

***Mitigation Measure TR-1: Develop a Temporary Traffic Control Plan***

The following construction management actions will be documented in a temporary traffic control plan developed by the contractor as a requirement that will be included in its construction contract. The temporary traffic control plan will be submitted for Caltrans' review and approval during the Encroachment Permit process.

- Construction contractors will install signage at roadways and intersections identified as dangerous in accordance with the California Manual on Uniform Traffic Control Devices guidelines warning motorists of slow-moving construction traffic and lane closures. Signage shall also be posted at these locations one month in advance to allow motorists time to plan for delays or alternate routes.
- Construction contractors shall implement dust abatement and perform proper construction traffic management actions, including signage warning motorists of construction activity and traffic controls like flaggers or temporary traffic lights where construction equipment will be entering roadways, to reduce conflicts during periods of high traffic volume in and around each construction site and to avoid conflicts with emergency responders entering and existing the area during an emergency.
- In addition to the temporary traffic control plan, before the initiation of any construction actions, construction contractors shall develop and adhere to a health and safety plan outlining all applicable Occupational Safety and Health Administration requirements, and important traffic safety plans, including identification of emergency access routes in and through construction areas that would still need to be kept clear at all times during construction. The health and safety plan shall include coordination with emergency service personnel to ensure adequate mitigation for all impacts.

***Mitigation Measure HAZ-1: Activity Containment and Spills Management***

During construction and operations, all associated activities, equipment, and machinery shall be restricted to the canal right of way (ROW). To ensure containment, construction contractors should place boundaries and noticeable signs of entry and exit, restricting access to within the ROW. All construction equipment and vehicles used shall be maintained properly according to manufacturer specifications and should be inspected to identify and fix any excessive fluid leakages prior to arriving to the construction site. Additionally, the construction contractor shall also prepare a Spill Prevention and Response Plan for preventing spills and responding to chemical or hazardous substance spills. This plan will include spill prevention management, including employee training, hazardous substance inventory, and spill response equipment. The plan will also include a spill response plan, including evacuation procedures, spill containment and cleanup, and reporting a release.

***Mitigation Measure HAZ-2: Risk Reduction – Airborne Hazardous Materials***

To reduce risks of hazards involving release of airborne hazardous materials, the construction contractor shall implement the United States Occupational Safety and Health Administration's

(OSHA's) regulations for asbestos and lead (29 CFR 1910.1001, 1926.1101, and 1926.62) prior to demolition of any structures that could contain asbestos or lead paint. Demolition of structures suspected to contain lead paint (structures built prior to 1978) should be wetted prior to demolition to reduce the likelihood of inhaling lead dust particles. Construction workers should be outfitted in the proper personal protective equipment, including an appropriate respirator, before completing demolition work.

Under AB 203, the construction contractor shall implement health and safety awareness training before excavation of any topsoil to reduce infection of by Valley fever. Safety and Mitigation Measures (MM) that should be included in the training include wetting down soil before digging to reduce aggravation of dust and dirt, wearing a N95 mask or respirator, and halting work in the presence of a dust storm or windy conditions and staying indoors or in an enclosed area away from dust.

***Mitigation Measure HAZ-3: Fire Prevention Controls***

Construction contracts should be required to provide (1) fire prevention controls such as spark arrestors and (2) fire safety training to avoid risk of wildfire. Since work is year-round, all temporary heaters should be used in accordance with manufacturer instructions and monitored by employees in compliance with fire safety training. In addition, the construction contractor shall prepare a Fire Prevention Plan to prevent a fire from occurring, compliant with OSHA regulations. The plan shall include:

- List of all major fire hazards, proper handling and storage procedures for hazardous materials, potential ignition sources and their control, and the type of fire protection equipment necessary to control each major hazard;
- Procedures to control accumulations of flammable and combustible waste materials;
- Procedures for regular maintenance of safeguards installed on heat-producing equipment to prevent the accidental ignition of combustible materials;
- Name or job title of employees responsible for maintaining equipment to prevent or control sources of ignition or fires; and
- Name or job title of employees responsible for the control of fuel source hazards.

***Mitigation Measure HAZ-4: Contaminated Soil/Groundwater Remediation Plan***

The construction contractor in coordination with the Lead Agencies shall work with the California Department of Parks and Recreation (CDPR) and the Central Valley Regional Water Quality Board (RWQCB) to review existing monitoring data of the hazardous materials/waste sites within the study area to evaluate the potential for interacting with hazardous soil contamination during construction. If the construction contractor and the Lead Agencies (as the responsible party for this potential disturbance) determine that interaction with contaminated soil cannot be avoided and these construction actions could generate a release of this soil to nearby water bodies or elsewhere off-site, the construction contractor shall prepare a Contaminated Soil / Groundwater Remediation Plan. This remediation plan shall detail the nature of the contaminants on-site, measures required to avoid interaction with these contaminants including (if necessary) a pre-construction cleanup of the site, and a response action plan in the event of an inadvertent release of contaminated soils from the construction site. This plan shall be submitted to the CDPR and the Central Valley RWQCB for review and approval prior to the initiation of any construction.

***Mitigation Measure HAZ-5: Airport Safety***

Construction contracts shall include requirements for the contractor to prepare a construction safety plan prior to any construction activities in collaboration with the City of Tracy Department of Parks and Recreation (owners of the Tracy Municipal Airport) to coordinate construction activities, including a schedule, coordination of personnel with aviation radios, and notice

requirements. The contractor shall also coordinate with emergency service personnel to ensure adequate mitigation for all impacts.

***Mitigation Measure BIO-1: Measures to Minimize Impacts on Special-Status Plants***

A botanical survey shall be conducted prior to construction activities to determine the presence or absence of special-status plant species within the Project area. The surveys shall be conducted in general accordance with the Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities (CDFW 2021) and shall be timed to appropriately coincide with the blooming period of special-status plant species with the potential to occur in the Project disturbance areas.

If more than five years lapse after the botanical survey is conducted prior to ground disturbance, two botanical surveys (early and late season) shall be conducted in all suitable habitat located within the Project disturbance areas to determine the presence or absence of special-status plants.

If special-status plant species are found during the botanical surveys, the locations of the special-status plants and a 50-foot buffer will be marked as avoidance areas both in the field using flagging, staking, fencing, or similar devices and on construction plans.

If non-listed, special-status plants are identified during botanical surveys and complete avoidance is not practicable, and the Project would directly or indirectly affect more than 25 percent of a local occurrence by either number of plants or square footage of occupied habitat, then a qualified biologist will determine whether implementation of a conservation plan is recommended. If federal- or state-listed plants are identified during botanical surveys and complete avoidance is not practicable, coordination with CDFW and/or USFWS will be conducted as appropriate to develop the conservation plan. No take of state-listed or federally listed species will occur without an Incidental Take Permit (ITP) from either CDFW or USFWS.

The special-status plant conservation plan may consist of, but would not necessarily be limited to, purchase of mitigation credits at a regional conservation bank; plant salvage and relocation; collection and subsequent planting of seed or incorporating seed from native nursery into seed mix used for revegetation efforts; stockpiling, storing, and replacing topsoil containing the local seed bank; or other measures determined practicable based on the species and site conditions. If on-site conservation measures are implemented, the objective is to restore the impacted special-status plant species community to pre-existing conditions by providing for the restoration of a self-sustaining population of special-status plants in the general area where the impact occurred at a minimum of a 1:1 ratio (e.g., number of plants, square footage occupied). For on-site conservation measures, the conservation plan will identify success criteria and provide for annual or other regular monitoring to evaluate whether the conservation effort has met the success criteria. The conservation plan will also include measures for remedial actions (e.g., additional plantings, supplemental irrigation, increased monitoring) if monitoring efforts indicate that success criteria are not being met.

For some species and site conditions, the biologist may determine that a conservation plan is not recommended. Some of these circumstances may include but are not limited to the following: (1) there are other nearby populations that will not be disturbed; (2) plant relocation, seeding, or revegetation would not have a reasonable probability of success; (3) implementation of measures could result in detrimental effects on existing special-status plant populations; or (4) incompatibility with required operations and maintenance activities. If the biologist determines, in coordination with CDFW and/or USFWS, that a conservation plan is not warranted, then no additional measures are required.

***Mitigation Measure BIO-2: General Measures to Minimize Impacts on Special-Status Animal Species***

A Biological Resources Management and Monitoring Plan (BRMMP) shall be developed and implemented for the Project. The BRMMP shall provide for the following:

- 1) Overall implementation and monitoring of the MMs for biological resources and the terms and conditions of any agency permits/authorizations throughout the duration of Project construction and restoration/revegetation of riparian habitat, per BIO-2c.
- 2) Designation of an overall Project biologist and the roles and responsibilities of the Project biologist and other monitoring biologists and the roles of Reclamation, SLDMWA, and construction personnel in coordinating and implementing the BRMMP.
- 3) Adaptive management in scheduling worker environmental awareness training (WEAT) and conducting pre-construction surveys for special-status species. In some cases, additional biological surveys beyond those identified in the MMs may be warranted to proactively avoid biological constraints or conflicts with protective measures. For example, early monitoring for nesting birds or occupied mammal burrows may be needed to preserve opportunities for vegetation removal, removal of nesting starts before egg laying, and burrow monitoring and closure prior to the initiation of breeding or nesting activities.
- 4) procedure and authorizations required to modify the MMs, if needed, to resolve conflicts with constructability requirements or other measures required by agency permits/authorizations or to provide for equivalent avoidance/minimization of adverse effects on sensitive biological resources under changing conditions over the life of Project construction. For example, nesting birds or other special-status species may initiate nesting or denning activities in proximity to construction areas while active construction activities are ongoing, including those within the 'no-disturbance buffers.' In these cases, it may be that the animals are acclimated to the level of construction disturbance, and continuance of construction activities would not be expected to adversely affect the animals or their nesting/breeding activities (assuming that increased levels of disturbance or closer proximity of construction activities is not planned). The BRMMP will include provisions for how these and similar circumstances will be addressed and how determinations regarding additional biological monitoring or agency coordination will be addressed.
- 5) Procedure to record and document implementation of the MMs and other measures including any pre-construction survey reports, WEAT sign-in forms, routine biological monitoring forms, photographs, and other materials related to implementation of the BRMMP.
- 6) Procedure to comply with the terms and conditions and notification and reporting requirements of any agency permits/authorizations required for the Project, and the procedure for coordination/consultation with resource or permitting agencies, as necessary.
- 7) Procedure to inform, document, and monitor restoration and revegetation activities associated with restoring temporary impacts on terrestrial and aquatic habitats and vegetation communities. This includes any post-construction monitoring/reporting and remedial measures that may be required.

Prior to the initiation of ground disturbance, a qualified biologist(s) will conduct a WEAT for all construction personnel. Training sessions will be repeated for all new personnel before they access the Project site. Sign-in sheets identifying attendees and the contractor/company they represent will be prepared for each training session, and records of attendance will be maintained by the Project. At minimum, the WEAT will include a description of the protected species and biological resources that may occur in the Project area and their physical description, habitats, and natural history, as well as the measures that are being implemented to avoid or minimize Project-related impacts, penalties for noncompliance, and the boundaries of the work area. As appropriate, training will be conducted in languages other than English to ensure that employees and contractors understand their roles and responsibilities. A written

summary of the training will be provided to all attendees, and an electronic copy will be provided so that the Project can make and distribute future copies. The WEAT will be conducted annually, at minimum, for all construction personnel.

A litter control program will be instituted at each Project site. All workers will place their food scraps, paper wrappers, food containers, cans, bottles, and other trash in covered or closed trash containers. The trash containers should be removed from the Project area at the end of each working day.

No firearms (except as possessed by federal, state, or local law enforcement officers) or pets will be permitted on construction sites.

To prevent inadvertent entrapment of wildlife during construction, all excavated steep-walled holes or trenches greater than two-feet deep should be covered or filled at the end of each working day or provided with one or more escape ramps no greater than 200 feet apart. Before such trenches or holes are filled, they shall be thoroughly inspected for trapped animals. If protected species are found in any of the holes or trenches, work shall cease until an escape ramp is provided and the animal leaves on its own volition, or until the animal has been relocated by a USFWS-approved biologist, and/or in coordination with USFWS, as appropriate.

All construction activity will be confined within the Project site, which may include temporary access roads, haul roads, and staging areas specifically designated and marked for these purposes.

Restoration and revegetation work associated with temporary impacts shall be done using California native plant material from on-site or local sources (i.e., local ecotype). Plant materials from non-local sources shall be allowed only with written authorization from USFWS. To the maximum extent practical (i.e., presence of natural lands), topsoil shall be removed, cached, and returned to the site according to successful restoration protocols. Loss of soil from runoff or erosion shall be prevented with straw bales, straw wattles, or similar means provided they do not entangle, block escape, or dispersal routes of listed animal species.

The Project construction area shall be delineated with high visibility temporary fencing, flagging, or other barrier to prevent encroachment of construction personnel and equipment onto any sensitive areas during Project work activities. Such fencing shall be inspected and maintained daily until completion of the Project. The fencing will be removed only when all construction equipment is removed from the site. No Project activities will occur outside the delineated Project construction area.

Only USFWS-approved personnel holding valid permits issued pursuant to Section 10(a)(1)(A) of the Act will be allowed to trap or capture listed species. Any relocation plan will be approved by USFWS prior to release of any listed species.

Tightly woven fiber netting or similar material (no monofilament material) will be used for erosion control or other purposes at the Project site to ensure that animals do not become trapped.

***Mitigation Measure BIO-3: Measures to Minimize Impacts on Bats***

To the extent practicable, the removal of large trees with cavities or the modification of canal infrastructure with the potential to provide bat roosts will occur before maternity colonies form (i.e., prior to March 1) or after young are volant (able to fly) (i.e., after August 15).

If construction (including the removal of large trees and/or the modification of canal infrastructure) occurs during the non-volant season (March 1 to August 15), a qualified biologist will conduct a pre-construction survey of the Project area for maternity colonies. The pre-construction survey will be performed no more than 14 days prior to the implementation of construction activities (including staging and equipment access). If a lapse in construction activities for 14 days or more occurs between those dates, another pre-construction survey will be performed. If any maternity colonies are detected, appropriate conservation measures (as determined by a qualified biologist) will be implemented. These measures may include, but are

not limited to, establishing a construction-free buffer zone around the maternity colony site, biological monitoring of the maternity colony, and delaying construction activities within the vicinity of the maternity site.

**Mitigation Measure BIO-4: Measures to Minimize Impacts on the American Badger**

Any American badger detected within the Project area during Project-related activities will be allowed to move out of the work area of its own volition.

Concurrent with other required surveys, during winter and spring months before new Project activities, and concurrent with other pre-construction surveys (e.g., San Joaquin kit fox [SJKF] and burrowing owl), a qualified biologist will perform a survey to identify the presence of active or inactive American badger dens. If this species is not found, no further mitigation will be required. If badger dens are identified within the construction footprint during the surveys or afterward, they will be inspected and closed using the following methodology:

- When unoccupied dens are encountered outside of work areas but within 100 feet of proposed activities, vacated dens will be inspected to ensure they are empty and temporarily covered using plywood sheets or similar materials.
- If badger occupancy is determined at a given site within the work area, work activities at that site should be halted. Depending on the den type, reasonable and prudent measures to avoid harming badgers will be implemented and will include seasonal limitations on Project construction near the site (e.g., restricting the construction period to avoid spring–summer pupping season) or establishing a construction exclusion zone around the identified site or resurveying the den at a later time to determine the species' presence or absence.
- Badgers will be passively relocated using burrow exclusion (e.g., installing one-way doors on burrows) or similar CDFW-approved exclusion methods. In unique situations, it may be necessary to actively relocate badgers (using live traps) to protect individuals from potentially harmful situations. Such relocation would be performed with advance CDFW coordination and concurrence.

**Mitigation Measure BIO-5: Measures to Minimize Impacts on San Joaquin Kit Fox**

Determine the presence of SJKF dens:

- a) Pre-construction monitoring will be performed no less than 14 days and no more than 30 days prior to construction to identify kit fox habitat features within the Project area.
- b) Areas within which pre-construction monitoring have been completed more than 30 days prior to construction will be re-inventoried not more than 30 days prior to construction.
- c) Pre-construction monitoring for dens will be conducted by qualified biologists familiar with SJKF biology, natural history, and potential dens.
- d) Pipes and culverts will be searched for SJKF immediately prior to being moved or sealed to ensure that an animal has not been trapped. If SJKF is observed, a USFWS-approved biologist will gently encourage it to leave the area (i.e., without using loud noise, physical force, or physical movement of the pipe or culvert such that the animal could be injured or startled while it is leaving the area).

Identify and document locations of potential or occupied dens (natal or non-natal) and their status (occupied or unoccupied). Definitions:

- a) Known den: any existing natural den or manmade structure that is used or has been used at any time in the past by SJKF. Evidence of use may include historical records, past or current radiotelemetry or spotlighting data, kit fox sign such as tracks, scat, and/or prey remains, or other reasonable proof that a given den is being or has been used by a kit fox. USFWS discourages use of the terms “active” and “inactive” when referring to any kit fox den because a great percentage of occupied dens show no



evidence of use, and because kit foxes change dens often, with the result that the status of a given den may change frequently and abruptly.

- b) Potential den: any subterranean hole within the species' range that has entrances of appropriate dimensions (five to eight inches in diameter) for which available evidence is insufficient to conclude that it is being used or has been used by a kit fox. Potential dens shall include the following: (1) any suitable subterranean hole five to eight inches in diameter within the species' range; or (2) any den or burrow of another species (e.g., coyote, badger, red fox, or ground squirrel) that otherwise has appropriate characteristics for kit fox use.
- c) Natal/pupping den: any den used by kit foxes to whelp and/or rear their pups. Natal/pupping dens may be larger with more numerous entrances than dens occupied exclusively by adults. These dens typically have more kit fox tracks, scat, and prey remains in the vicinity of the den, and may have a broader apron of matted dirt and/or vegetation at one or more entrances. A natal den, defined as a den in which kit fox pups are actually whelped but not necessarily reared, is a more restrictive version of the pupping den. In practice, however, it is difficult to distinguish between the two, therefore, for purposes of this definition either term applies.
- d) Atypical den: any manmade structure which has been or is being occupied by SJKF. Atypical dens may include pipes, culverts, and diggings beneath concrete slabs and buildings.

Identify and execute appropriate action(s) regarding notification, buffers, excavation and fill, or seal off:

- a) Occupied natal den: if an occupied natal den is visible or encountered within the Project limits or on publicly accessible land sufficiently close to the Project construction area such that it would be disturbed (based on qualified biologist opinion and monitoring), USFWS and CDFW will be contacted immediately and before any Project action occurs to determine permissible actions to permit resumption of work.
- b) Unless determined necessary for safety or constructability by Reclamation, SLDMWA, or the Project contractor, the Project site will not be lighted between sunset and sunrise.
- c) Pipes or culverts with a diameter greater than four inches will be capped or taped closed when it is ascertained that no SJKF are present. Any SJKF found in a pipe or culvert will be allowed to escape unimpeded.

If a natural den or burrow is determined to meet size criteria (i.e., greater than four inches in diameter) and cannot be avoided per the no-disturbance buffers recommended in the USFWS Standardized Recommendations for Protection of the SJKF Prior to or During Ground Disturbance (USFWS 2011) or shall be destroyed, the following guidelines will be followed:

- a) Prior to den destruction, areas scheduled for construction within the vicinity of potential kit fox dens shall be monitored by a qualified biologist to determine their status. Monitoring will begin with pedestrian surveys to identify locations of potential kit fox dens and observe for suitable surrounding habitat. Because it is logistically impractical to monitor all dens using remote cameras and tracking medium (or to hand excavate to confirm vacancy), baited camera traps may be used to assess presence or absence of SJKF activity. Prior to ground-disturbing activities in Project segments that require excavation, baited camera traps will be deployed in approximate 0.25-mile increments for four consecutive nights. Baited camera traps may be placed farther than 0.25 mile apart, depending on the suitability of surrounding habitat and land uses that are observed during pedestrian surveys and in areas with lower densities of potential kit fox dens. If no kit foxes are detected by the camera traps during this time period, it can be assumed that kit foxes are not currently using the area, and ground-disturbing activities

may commence in that area. If a kit fox is detected by a camera trap, then further investigation will be required, as described below.

- b) If a kit fox is detected by a baited camera trap or otherwise observed in an area, further pre-construction monitoring will be conducted to determine which den(s) are being used. Baited camera traps will be deployed in the area, and tracking medium will be placed at the entrances of suspected dens to monitor the area for four consecutive nights. If no SJKF activity is observed during this period, the den will be deemed unoccupied and destroyed immediately under the supervision of a USFWS-approved biologist to preclude subsequent use. If SJKF activity is observed at the den during this period, then the den will be monitored for at least five consecutive days from the time of observation to allow any resident animal to move to another den during its normal activities. Use of the den can be discouraged during this period by partially plugging the entrance(s) with soil in such a manner that any resident animal can escape easily. Destruction of the den may begin when, in the judgment of a USFWS-approved biologist, the animal has vacated. The biologist will be trained and familiar with SJKF biology. If the animal is still present after five or more consecutive days of plugging and monitoring, the den may be excavated when, in the judgment of a USFWS-approved biologist, it is temporarily vacant (e.g., during the animal's normal foraging activities). All den destruction shall be conducted under the supervision of a USFWS-approved biologist.
- c) All dens requiring excavation will be excavated under the supervision of a USFWS-approved biologist. In no event will an excavation that meets the definition of a confined space (i.e., a space large enough and so configured that a person can bodily enter but has limited or restricted means for entry or exit) be initiated. In this circumstance, discouragement (as described above) would be used.
- d) The den will be fully excavated and then filled with dirt and compacted so that SJKF cannot reenter or use the den during the construction period. If, at any point during excavation, an SJKF is discovered inside the den, the excavation activity will cease immediately, and monitoring of the den will be resumed. Destruction of the den may be resumed when, in the judgment of a USFWS-approved biologist, the animal has escaped from the partially destroyed den.

Before and during construction:

- Project-related vehicles should observe a daytime speed limit of 20 mph throughout the site in all Project areas, except on county roads and state and federal highways; this is particularly important at night when kit foxes are most active. Nighttime construction should be minimized to the extent possible. However, if it does occur, then the speed limit should be reduced to 10 mph. Off-road traffic outside of designated Project areas should be prohibited.
- Kit foxes are attracted to den-like structures, such as pipes, and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of four inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until USFWS has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved only once to remove it from the path of construction activity, until the fox has escaped.
- A representative shall be appointed by the Project proponent who will be the contact source for any employee or contractor who might inadvertently kill or injure a kit fox or who finds a dead, injured or entrapped kit fox. The representative will be identified during the employee education program and their name and telephone number shall be provided to USFWS.

- In the case of trapped animals, escape ramps or structures should be installed immediately to allow the animal(s) to escape, or USFWS should be contacted for guidance. If at any time a trapped or injured kit fox is discovered, USFWS and CDFW shall be contacted as noted below.
- Any contractor, employee, or military or agency personnel who are responsible for inadvertently killing or injuring a SJKF shall immediately report the incident to their representative. This representative shall contact USFWS immediately in the case of a dead, injured, or entrapped kit fox.
- The Sacramento Fish and Wildlife Office and CDFW shall be notified in writing within three working days of the accidental death or injury to a SJKF during Project-related activities. Notification shall include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information.
- New sightings of kit fox shall be reported to the CNDDDB. A copy of the reporting form and a topographic map clearly marked with the location of where the kit fox was observed should also be provided to USFWS.
- Because this species most actively forages during dusk and dawn, to the extent practicable, all construction activities will cease one-half hour before sunset and will not begin prior to one-half hour before sunrise. Except when necessary for driver or pedestrian safety, lighting of a Project site by artificial lighting during nighttime hours is prohibited.

***Mitigation Measure BIO-6: Measures to Minimize Impacts on the Tricolored Blackbird and the Yellow-Headed Blackbird***

Prior to construction, appropriately timed surveys for tricolored blackbirds and yellow-headed blackbirds will be conducted in areas supporting potentially suitable habitat within 0.25 mile of construction areas. Habitat within 0.25 mile of tricolored blackbird or yellow-headed blackbird colonies will be avoided during nesting season, which can begin as early as mid-March and extend through August. If colonies cannot be avoided, CDFW will be consulted to potentially reduce buffer distances with active monitoring during construction by a qualified biologist.

***Mitigation Measure BIO-7: Measures to Minimize Impacts on the Burrowing Owl***

A minimum of one pre-construction survey for burrowing owls within a minimum of 500 feet of the Project area (where accessible) will be conducted by a qualified biologist within 15 days prior to the initiation of construction activities in a given area, regardless of the timing of construction. Pre-construction surveys each year of construction during the nonbreeding season (September 1 to January 31) will take place in order to determine the presence of burrowing owls before breeding activities begin. If any occupied burrows are identified, appropriate conservation measures (as determined by a qualified biologist) will be implemented. No disturbance will occur within 150 feet of occupied burrows during the nonbreeding season (September 1 to January 31) or within 250 feet during the breeding season (February 1 to August 31). These measures may also include establishing a construction-free buffer zone around the active nest site in coordination with the CDFW, biological monitoring of the active nest site, and delaying construction activities in the vicinity of the active nest site until the young have fledged.

If burrowing owls are detected within the Project area during the nonbreeding season and maintaining a 150-foot, no-disturbance buffer is not practicable, a qualified biologist will submit an exclusion and passive relocation plan to CDFW. The exclusion and passive relocation plan will generally follow the guidelines outlined in Appendix E of the Staff Report on Burrowing Owl Mitigation (CDFW 2012). The exclusion and passive relocation plan will consist of installing one-way doors in potential burrows, daily monitoring, and collapsing burrows once it is determined that the burrows are unoccupied. Exclusion may only take place during the nonbreeding season (September 1 to January 31) and may be an ongoing effort during this time period. This will

allow the owls to exit burrows if they are present, but not return. The exclusion and passive relocation plan will also detail plans to replace collapsed burrows with artificial burrows at a minimum 1:1 ratio or describe why artificial burrows are not needed (e.g., numerous available natural burrows are available in nearby areas that will not be disturbed). Monitoring of collapsed burrows will be conducted as needed so that burrowing owls do not recolonize the area prior to construction disturbance.

If occupied burrows are detected during the breeding season and maintaining a 250-foot no-disturbance buffer is not practicable, CDFW will be consulted to determine alternative measures to minimize the potential for disturbance to occupied burrows and nesting activities. Measures may include but are not limited to continuous biological monitoring by a qualified biologist until it has been determined that the young have fledged and are no longer reliant on the nest or parental care for survival or construction is complete. No direct disturbance of burrows with eggs or young can be conducted without written authorization from the CDFW and USFWS.

***Mitigation Measure BIO-8: Measures to Minimize Impacts on the Golden Eagle, Swainson's Hawk, Northern Harrier, or White-Tailed Kite***

For construction activities that occur between February 1 and August 31, a qualified biologist will conduct pre-construction surveys for golden eagles, Swainson's hawks, northern harriers, and white-tailed kites. The pre-construction surveys will include the Project footprint and a minimum of a 0.50-mile radius where access is permitted around the construction area in suitable nesting habitat (i.e., large trees for Swainson's hawk and white-tailed kite, cliff faces for golden eagle, and grasslands for northern harrier). The pre-construction surveys will be conducted no more than 10 days before ground disturbance in a given area and will be phased based on the construction schedule.

If nesting golden eagles, Swainson's hawks, northern harriers, or white-tailed kites are detected, an appropriate no-disturbance buffer (minimum of 500 feet for northern harrier, 0.50 mile for golden eagle, Swainson's hawk, and white-tailed kite) will be established and monitored daily by a qualified biologist. Buffers will be maintained until a qualified biologist has determined that the young have fledged and are no longer reliant on the nest or parental care for survival. A 0.50-mile no-disturbance buffer will also be maintained from any overwintering eagles if they are detected in the Project area or surrounding areas; the buffer will be maintained for the duration that the bird(s) are present. If any bald eagles or golden eagles are detected, Reclamation will coordinate with USFWS, as necessary, to comply with the Bald and Golden Eagle Protection Act.

If maintaining the minimum no-disturbance buffer around an active golden eagle, Swainson's hawk, northern harrier, or white-tailed kite nest (or any overwintering eagles) is not practicable, CDFW will be consulted to determine whether reduced minimum no-disturbance buffers are appropriate based on site-specific circumstances (e.g., visual barriers between nest and construction area, existing level of disturbance) or to identify alternative measures to minimize the potential for Project-related disturbance to the nest site that could result in nest abandonment or other forms of take. Measures may include, but are not limited to, continuous biological monitoring by a qualified biologist until it has been determined that the young have fledged and are no longer reliant on the nest or parental care for survival or construction is complete. If the nesting pair shows signs of distress (i.e., adults leaving the nest when eggs or young chicks are present) as a result of Project-related activities, the monitoring biologist will have authority to stop work until it is determined that the adults have returned and are no longer showing signs of distress.

If trees suitable for nesting by Swainson's hawk are scheduled to be removed during the non-nesting season, a qualified biologist will conduct a pre-construction survey during the nesting season prior to tree removal to determine whether Swainson's hawks are using the trees for nesting. If the trees proposed for removal are being used by nesting Swainson's hawk, consultation with CDFW will take place per BIO-8. prior to tree removal.

If CESA compliance is required, and consultation with CDFW results in a determination that take of an active Swainson's hawk nest cannot be avoided, then take authorization pursuant to CESA will be obtained from CDFW prior to initiation of any activities that are likely to result in such take.

If an active golden eagle or white-tailed kite nest may not be avoidable, then all activities that are likely to result in take will be delayed until a qualified biologist has determined that the young have fledged and are no longer reliant on the nest or parental care for survival.

***Mitigation Measure BIO-9: Measures to Minimize Impacts on Nesting Migratory Birds***

To the extent practicable, vegetation removal will be scheduled to avoid the breeding season for nesting raptors and other special-status birds (generally February 1 through August 31, depending on the species). Removal of vegetation outside of the nesting season is intended to minimize the potential for delays in vegetation removal because of active nests.

Regardless of when vegetation removal is scheduled, a qualified biologist will conduct a minimum of one pre-construction survey for nesting migratory birds and raptors within the Project area and a buffer (250 feet for migratory birds, 500 feet for raptors) around the Project area (where accessible) for all construction-related activities that will occur during the nesting season. The pre-construction survey will be conducted no more than 15 days prior to the initiation of construction in a given area and will be phased based on the construction schedule. Because of the ongoing, phased approach to construction, multiple pre-construction surveys per year may be required. If an active nest is found, a construction-free buffer zone (250 feet for migratory birds, 500 feet for raptors) will be established around the active nest site. If establishment of the construction-free buffer zone is not practicable, appropriate conservation measures (as determined by a qualified biologist) will be implemented. These measures may include, but are not limited to, consultation with CDFW to establish a different construction-free buffer zone around the active nest site, daily biological monitoring of the active nest site, and delaying construction activities in the vicinity of the active nest site until the young have fledged.

If removal of bridges or other bridge work is scheduled to occur during the swallow nesting season, exclusionary devices (e.g., netting) will be installed around the bridges prior to the initiation of the avian breeding season (before February 15) during the same year as the bridges are scheduled for removal and after a qualified biologist has determined no active nests (i.e., nests with eggs or young) are present. The exclusionary devices will remain in place until August 15 or until the bridge removal or other bridge work is completed. The exclusionary devices will be anchored such that swallows cannot attach their nests to the structure through gaps. Exclusionary devices will be regularly inspected as necessary to confirm that they are adequately preventing initiation of nest building. If swallows have breached the exclusionary devices and began building nests on the structure, nesting material (i.e., partially built nests) can be removed only if a qualified biologist has determined that eggs or young are not present. No removal of nests with eggs or young can be conducted without written authorization from CDFW and USFWS, or until a qualified biologist has determined that the nest is no longer active (e.g., the nest has failed, the young have fledged and are no longer dependent on the nest).

***Mitigation Measure BIO-10: Measures to Minimize Impacts on the California Tiger Salamander (CTS) and the California Red-legged Frog (CRLF)***

Before and during construction:

- Protocol presence/absence surveys shall be conducted by a USFWS-approved biologist in suitable habitat prior to construction with a negative finding. As the Project is multi-year, protocol presence/absence surveys can be conducted in portions of the Project area that have work scheduled the following year. Alternatively, presence can be assumed in suitable habitat and the measures below can be implemented.
- To the maximum extent practicable, the Project design and construction implementation will avoid impacts to suitable breeding habitat. Areas of avoidance shall be indicated on

Project plan sets and shall be clearly delineated in the field. Signage indicating “Environmentally Sensitive Area: Keep Out” shall be posted.

- Protocol aquatic surveys shall be conducted by a USFWS-approved biologist in suitable breeding habitat within areas that will be disturbed by construction in the following year, and within 1.3 miles of those areas to detect occupied breeding resources (one survey in March, April, and May each). Any occupied breeding resources will be prioritized for avoidance.
- Resources documented to support breeding populations of CTS/CRLF shall be avoided during construction with a buffer sufficient to ensure the continued functioning of that breeding resource. If adherence to this buffer is not feasible, USFWS shall be contacted to determine whether moving individuals prior to construction is authorized.
- A USFWS-approved biologist shall survey the work sites where suitable habitat has been identified no more than 30 days before the onset of construction. Adult individuals detected during the surveys shall be relocated out of the area of disturbance by a USFWS-approved biologist.
- Work in occupied habitat shall only occur during the dry season.
- Areas beneath construction equipment and vehicles shall be inspected daily, prior to operation, for presence of CTS/CRLF under tracks/tires and within machinery by a USFWS-approved biologist until the biologist determines a designated contractor is sufficiently trained to monitor. A USFWS-approved biologist will ensure that this individual receives training consistent with USFWS requirements. A USFWS-approved biologist will be on-call to come to the site if CTS/CRLF are found.
- CTS/CRLF one-way, exclusion fencing shall be installed between construction areas and occupied habitat. This fencing shall extend 1.3 miles from the boundary of the occupied habitat along the alignment of the Project area.
- Overnight staging of vehicles or equipment shall be prohibited within 100 feet of occupied or assumed-occupied breeding resources.
- Work in occupied breeding habitat shall only occur during the dry season.

After construction:

- Temporary disturbance of occupied habitat shall be mitigated by restoring the area to pre-Project contours and revegetation.

***Mitigation Measure BIO-11: Measures to Minimize Impacts on the Western Spadefoot Toad***

If a western spadefoot toad is encountered during construction activities, it will be allowed to move out of harm’s way of its own volition, or a qualified biologist will relocate it to the nearest suitable habitat that is at least 100 feet outside of the construction impact area.

Prior to moving equipment or materials each day, construction personnel will inspect for western spadefoot toads underneath and around equipment and other Project materials (e.g., stored pipes greater than two inches in diameter) that are located within 200 feet of aquatic habitat. If western spadefoot toads are found, they will be allowed to move out of the construction area under their own volition, or a qualified biologist will relocate individuals to the nearest suitable habitat that is at least 100 feet outside of the construction impact area.

***Mitigation Measure BIO-12: Measures to Minimize Impacts on the Northern California Legless Lizard, California Glossy Snake, San Joaquin Coachwhip, and Coast Horned Lizard***

Prior to moving equipment or materials each day, construction personnel will inspect underneath and around equipment for northern California legless lizard, California glossy snake, San Joaquin coachwhip, and coast horned lizard. If these species are encountered during

construction activities, they will be allowed to move out of harm's way of their own volition, or a qualified biologist will relocate the organism(s) to the nearest suitable habitat that is at least 100 feet outside of the construction impact area.

***Mitigation Measure BIO-13: Measures to Minimize Impacts on the Giant Garter Snake***

Before and during construction:

- Protocol presence/absence surveys shall be conducted by a USFWS approved biologist in suitable habitat prior to construction. As the project is multi-year, protocol presence/absence surveys can be conducted in portions of the Project Area that have work scheduled the following year. Alternatively, presence can be assumed in suitable habitat and the measures below implemented.
- Avoid construction activities within 200 feet from the banks of occupied or potential giant garter snake aquatic habitat. Confine movement of heavy equipment to existing roadways to minimize habitat disturbance.
- Construction activity within suitable habitat should be conducted between May 1 and October 1. This is the active period for giant garter snakes and direct mortality is lessened, because snakes are expected to actively move and avoid danger. Impacts to winter hibernacula should be avoided during the period of October 2 and April 30.
- The Project area shall be surveyed for giant garter snakes 24 hours prior to construction activities. Survey of the Project area should be repeated if a lapse in construction activity of two weeks or more has occurred. If a snake is encountered during construction, activities shall cease until appropriate corrective measures have been completed or it has been determined that the snake will not be harmed.
- Any dewatered habitat should remain dry for at least 15 consecutive days after April 15 and prior to excavating or filling of the dewatered habitat.

***Mitigation Measure BIO-14: Measures to Minimize Impacts on the Western Pond Turtle***

Before construction activities begin, a qualified biologist will conduct western pond turtle surveys within creeks and in other ponded areas affected by the Project. Adjacent upland areas will be examined for evidence of nests and individual turtles. The Project biologist will be responsible for the survey and for the relocation of pond turtles, if found. Construction will not proceed until reasonable effort has been made to capture and relocate as many western pond turtles as possible to minimize take. However, some individuals may remain undetected or enter sites after surveys and could be subject to injury or mortality. If a nest is observed, a biologist with the appropriate permits and prior approval from CDFW will move eggs to a suitable location or facility for incubation and release hatchlings into the creek system the following autumn.

***Mitigation Measure BIO-15: Measures to Minimize Impacts on the Longhorn Fairy Shrimp, Vernal Pool Fairy Shrimp, and Vernal Pool Tadpole Shrimp***

Before and during construction:

- Protocol presence/absence surveys shall be conducted by a USFWS-approved biologist in suitable habitat prior to construction with a negative finding. As the Project is multi-year, protocol presence/absence surveys can be conducted in portions of the Project area that have work scheduled the following year. Alternatively, presence can be assumed in suitable habitat.
- Work in occupied listed vernal pool branchiopod habitat shall only occur during the dry season.
- The authorized limits of branchiopod habitat (i.e., 250 feet from the pool edge) will be clearly staked in the field to prevent construction personnel from causing impacts to areas outside of work limits.

- Where temporary impacts will occur to occupied or assumed-occupied listed vernal pool branchiopod habitat, the top 1 to 3 inches of soil shall be salvaged to preserve the cyst bank. Saved topsoil shall be covered to avoid erosion. Topsoil shall be replaced as soon as possible upon completion of work in the impacted habitat.
- Overnight staging of vehicles or equipment shall be prohibited within 100 feet of occupied or assumed-occupied fairy shrimp.

After construction:

- Temporary impacts to listed branchiopod habitat shall be mitigated for by restoring the affected area to pre-Project contours, compaction levels, and revegetation.

***Mitigation Measure BIO-16: Measures to Minimize Impacts on Sensitive Natural Communities***

Temporary and permanent impacts on sensitive natural communities known to occur within the Project area will be minimized to the greatest extent practicable. Trees and other vegetation will not be removed if it can otherwise be reasonably avoided. In determining areas where vegetation shall be removed to provide adequate access for construction or staging, consideration will be given to selecting areas that require the least amount of removal of mature trees and canopy cover in coordination with a qualified biologist.

Prior to the initiation of construction activities, exclusionary fencing will be installed along the boundaries of all environmentally sensitive areas to be avoided, which will include sensitive natural communities and aquatic resources adjacent to the areas of Project-related impacts, so that impacts on environmentally sensitive areas outside of the construction area are minimized. Locations of environmentally sensitive areas and exclusionary fencing will be identified on construction plans. The exclusionary fencing will be inspected and maintained on a regular basis throughout Project construction in the areas where the fencing is needed to avoid unintended disturbance.

A Post-Construction Revegetation and Monitoring Plan will be developed and implemented to provide for the restoration of temporarily impacted riparian habitats to pre-existing conditions. The plan will include provisions for the planting of native woody vegetation and native seed mix or otherwise provide for the reestablishment of self-sustaining native riparian vegetation similar to the existing native riparian vegetation community. Planting of native riparian vegetation will include, but is not limited to, replacement of any trees removed by the Project at a 3:1 ratio (replaced to removed) with appropriate native tree species. For the purposes of this requirement, a tree is defined as a native woody plant (i.e., tree or mature shrub) with at least one stem measuring two inches or greater diameter at breast height. The plan will also identify success criteria and provide for annual or other regular monitoring to evaluate whether the revegetation effort has met the success criteria. The plan will include measures for remedial actions (e.g., additional plantings, supplemental irrigation, increased monitoring) if monitoring efforts indicate that success criteria are not being met.

***Mitigation Measure BIO-17: Measures to Minimize Impacts on Wetlands***

Prior to any temporary or permanent impacts on aquatic resources, any required permits/authorizations from RWQCB and USACE will be obtained. All terms and conditions of the required permits/authorizations will be implemented.

Where jurisdictional wetlands and other waters cannot be avoided, to offset temporary and permanent impacts that would occur as a result of the Project, restoration and compensatory mitigation to ensure no net loss will be provided as described below.

A wetland mitigation and monitoring plan will be developed in coordination with CDFW, USACE, or RWQCB to detail mitigation and monitoring obligations for temporary and permanent impacts to wetlands and other waters owing to construction activities and for other CDFW jurisdictional areas. The plan will quantify the total acreage affected; provide for mitigation, as described



below, to wetland or riparian habitat; specify annual success criteria for mitigation sites; specify monitoring and reporting requirements; and prescribe site-specific plans to compensate for wetland losses resulting from the Project consistent with USACE's no net loss policy.

Prior to construction, the aquatic structure of wetland and riparian areas to be disturbed will be photo-documented and measurements of width, length, and depth will be recorded. Recontouring and revegetation of the disturbed portions of jurisdictional areas in areas temporarily affected by construction prior to demobilization by the construction contractor will be completed at the end of Project construction. Creek banks will be recontoured to a more stable condition, if necessary.

Revegetation will include a palette of species native to the watershed area according to a revegetation plan to be developed by Reclamation and submitted to USACE, CDFW, and RWQCB for approval. Following removal, woody trees habitat acreage would be replanted at a minimum 1:1 ratio, or as determined and agreed upon by the permitting agencies. Interim vegetation or other measures will be implemented, as necessary, to control erosion in disturbed areas prior to final revegetation.

Wetland and other waters impact in the construction and inundation area will be compensated at a ratio of 2:1 or at a ratio agreed upon by the wetland permitting agencies. Compensatory mitigation will be conducted by creating or restoring wetland and aquatic habitat at an agency-approved location on nearby lands or through purchasing mitigation credits at a USACE- or CDFW-approved mitigation bank (depending on the resource). If mitigation is conducted on- or off-site, a five-year wetland mitigation and monitoring program for on- and off-site mitigation will be developed. Appropriate performance standards may include a 75-percent survival rate of restoration plantings; absence of invasive plant species; and a viable, self-sustaining creek or wetland system at the end of five years.

A weed control plan for the Project to limit the spread of noxious or invasive weeds will be developed. This plan would be consistent with current integrated pest management plans already in practice on lands surrounding the reservoir. Noxious or invasive weeds include those rated as 'high' in invasiveness by the California Invasive Plant Council. The plan will include a baseline survey to identify the location and extent of invasive weeds in the Project area prior to ground-disturbing activity, a plan to destroy existing invasive weeds in the construction area prior to initiation of ground-disturbing activity, weed-containment measures while the Project is in progress, and monitoring and control of weeds following completion of construction.

***Mitigation Measure CR-1: Implement a Formal Agreement Document to National Historic Preservation Act (NHPA) Section 106 Compliance and Resolve any Adverse Effects/Significant Impacts to Cultural Resources***

The resolution of adverse effects to historic properties occurs through the implementation of measures agreed on through consultation with the SHPO, Advisory Council on Historic Preservation (ACHP), and other Section 106 consulting parties. These measures are discussed in the draft Programmatic Agreement Between the Bureau of Reclamation, Interior Region 10 California-Great Basin; and the California State Historic Preservation Officer Regarding Compliance with Section 106 of the National Historic Preservation Act Pertaining to the Implementation of the Delta-Mendota Canal Subsidence Correction Project, Alameda, Contra Costa, San Joaquin, Stanislaus, Merced, and Fresno counties, which remains in review. In general, significant impacts to cultural resources under NEPA would be mitigated through the measures agreed to through the Section 106 process. Cultural resources that are formally determined not eligible for inclusion in the NRHP or the CRHR would require no further management prior to Project implementation. If cultural resources determined 'not eligible for listing in the NRHP but eligible for listing in the CRHR' are identified as part of the Project, such resources will be managed per CEQA requirements.

***Mitigation Measure GEO-1: Prepare for Unexpected Failures of Erosion Control Measures***

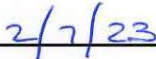
To prepare for unexpected failures of erosion control measures, a supply of erosion control materials will be maintained on-site during the construction period to facilitate a quick response to unanticipated storm events or emergencies.

#### **MANDATORY FINDINGS OF SIGNIFICANCE**

- No substantial evidence exists that the proposed project, as mitigated, would have a significant negative or adverse effect on the environment.
- The project would not substantially degrade the quality of the environment, significantly reduce the habitat for fish and wildlife species, result in fish or wildlife populations below a self-sustaining level, reduce the number or restrict the range of a special-status species, or eliminate important examples of California history or prehistory.
- The project would not have environmental effects that would cause substantial direct or indirect adverse effects on humans.
- The project would not have environmental effects that are individually limited but cumulatively considerable.

In accordance with Section 21082.1 of the California Environmental Quality Act, the SLDMWA staff has independently reviewed and analyzed the initial study (attached) and proposed mitigated negative declaration for the proposed project and finds that the initial study and proposed mitigated negative declaration reflect the independent judgment of the SLDMWA staff.

  
\_\_\_\_\_  
Pablo Arroyave, Chief Operating Officer  
San Luis & Delta-Mendota Water Authority

  
\_\_\_\_\_  
Date