

**RESOLUTION NO. 2023-07**

**ATTACHMENT A**

**STATEMENT OF FACTS AND FINDINGS  
REGARDING THE ENVIRONMENTAL EFFECTS  
FOR THE TUDOR FLOOD RISK REDUCTION PROJECT**

SCH NO. 2023010087

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### LIST OF ACRONYMS AND ABBREVIATIONS

<b>Term</b>	<b>Definition</b>
°F	Degrees Fahrenheit
BMP	Best Management Practice
BTA	Burial Treatment Agreement
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CHRIS	California Historical Resources Information System
CRHR	California Register of Historic Resources
CWA	Clean Water Act
DWSE	Design Water Surface Elevation
EIR	Environmental Impact Report
ESA	Endangered Species Act

<b>Term</b>	<b>Definition</b>
FRWL	Feather River West Levee
GHG	Greenhouse Gas
MLD	Most Likely Descendant
MMRP	Mitigation Monitoring and Reporting Program
NAHC	Native American Heritage Commission
NEIC	Northeast Information Center
NOP	Notice of Preparation
NRHP	National Register of Historic Places
NWP	Nationwide Permit
PRC	Public Resources Code
RWQCB	Regional Water Quality Control Board
SAA	Streambed Alteration Agreement
SBEL	Sutter Bypass East Levee
SBFCA	Sutter Butte Flood Control Agency
SHPO	State Historic Preservation Officer
SR	State Route
SRFCP	Sacramento River Flood Control Project
TCR	Tribal Cultural Resource
THPO	Tribal Historic Preservation Officer
UAIC	United Auburn Indian Community
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish & Wildlife Service
WEAP	Worker Environmental Awareness Program

## 1.0 STATEMENT OF FACTS AND FINDINGS

### 1.1 Introduction

The California Environmental Quality Act (CEQA) requires that a Lead Agency issue findings prior to approving a project that could generate a significant impact on the environment. For the Tudor Flood Risk Reduction Project, the findings consist of a Statement of Facts and Findings, where the Lead Agency identifies the significant impacts, presents facts supporting the conclusions reached in the analysis, makes one of two potential findings for each impact, and explains the reasoning behind the agency's findings.

The following statement of facts and findings has been prepared in accordance with CEQA and Public Resources Code Section 21081. CEQA Guidelines Section 15091 (a) provides that:

No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.

The three finding categories available for the Statement of Facts and Findings pursuant to CEQA Guidelines Section 15091 include:

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

The third category above is not used in this document because the Environmental Impact Report prepared for the Tudor Flood Risk Reduction Project concluded that construction and operation of the Project would not create any unavoidable adverse impact. Therefore, a Statement of Overriding Conditions is not necessary, and is not included in this document.

As the lead agency under CEQA, the Sutter Butte Flood Control Agency (SBFCA) finds and declares that the Environmental Impact Report (EIR) prepared for the Project was completed in compliance with CEQA and the CEQA Guidelines. SBFCA finds and certifies that the EIR was reviewed and information contained in the EIR was considered prior to approving the Tudor Flood Risk Reduction Project, herein referred to as the "Project."

Based upon its review of the EIR, the Lead Agency finds that the EIR is an adequate assessment of the potentially significant environmental impacts of the Project, represents the independent judgment of SBFCA, and sets forth an adequate range of alternatives to this Project.

The Final EIR is composed of the following elements:

- Draft Environmental Impact Report for the Project including Technical Appendices;
- A list of persons commenting on the Draft EIR, comments, and responses;
- Errata for the Final EIR; and
- Mitigation Monitoring and Reporting Program (MMRP).

## **2.0 PROJECT SUMMARY**

### **2.1 Description Of Project Proposed For Approval**

#### **Background**

In partnership with the State of California (through the California Department of Water Resources and Central Valley Flood Protection Board), SBFCA embarked on a comprehensive evaluation of the condition of levees in Sutter and Butte counties in 2007. The evaluation was necessary to identify the magnitude and severity of deficiencies in the levee system and determine measures to address the deficiencies. The results of the comprehensive evaluation revealed that substantial construction is necessary to meet current flood protection standards.

SBFCA has completed various levee improvement projects along the Feather River West Levee (FRWL) with the goal of meeting State Urban Levee Design Criteria and Federal Emergency Management Agency requirements. Analysis, design, and construction projects were previously completed, over multiple phases, for the portion of the FRWL from State Route (SR) 99 (approximate station 97+00) to the Thermalito Afterbay (station 2368+26).

SBFCA is now implementing the Project to improve the remainder of the FRWL from its confluence with the Sutter Bypass East Levee (station 10+00) to just east of SR 99 (approximate station 97+00).

#### **Description of Project**

Under the Project, SBFCA proposes to make several improvements to the existing levee, primarily to address seepage under the levee. This would involve removing roughly the top third of the levee segment embankment, excavating a 38- to 64-foot-deep trench down the center of the levee, and filling it with a bentonite slurry mix that would harden to form a cutoff wall to block the seepage. After installation of the cutoff wall and the appropriate cutoff wall settlement period (typically 21 days), the levee embankment would be reconstructed to its original lines and grades. The reconstructed embankment would include a 6- to 8-foot-wide clay core. Generally, the levee crown would be 20 feet in width. The Project Area for the Proposed Project is defined as a corridor along the levee segment that is approximately 1.65 miles long and 200 feet wide, for a total of approximately 43.7 acres. All work planned for the Project would be conducted within the Project Area.

#### **Environmental Setting**

The regional setting of the Tudor Flood Risk Reduction Project is the Sacramento River Flood Control Project (SRFCP), beginning as far north as Redding, California, and extending south to the Delta. The regional setting is important relative to other flood risk reduction projects that have been completed or are planned. For the analysis of effects (i.e., direct, indirect, or cumulative), the regional context of the SRFCP is taken into consideration.

Scoping down in regional setting, the Sutter Basin is part of the SRFCP, located in north-central California in Sutter and Butte counties. The elongated, irregularly shaped basin covers about 326 square miles and is about 44 miles long north to south and up to 14 miles wide east to west. It is roughly bounded by the Feather River to the east; and Cherokee Canal, the Sutter Buttes, and Sutter Bypass to the west, listed from north to south. Floodwaters potentially threatening the basin originate from the Feather River watershed or the upper Sacramento River watershed, above Colusa Weir. These waterways have drainage areas of 5,921 and 12,090 square miles, respectively. In addition to Yuba City, communities in the basin include Biggs, Gridley, Live Oak, Tudor, and Sutter.

The Project Area for the Project, a subset of the Sutter Basin described above, is focused between the Sutter Bypass East Levee and a point just east of SR 99 on the north bank of the Feather River across from Nicolaus, California. The levee landside is bound by an irrigation canal and orchards owned and operated by Odysseus Farms. The irrigation canal is located between approximate stations 11+00 and 58+00; an irrigation pipe crossing (penetration through the levee) is located near station 52+25, a Pacific Gas & Electric Company transmission tower is located at the landside of the levee near station 70+00, and SR 99 intersects the levee near station 98+00. The levee waterside is bound by the open space owned and maintained by the California Department of Fish and Wildlife (CDFW). Levee improvements are currently anticipated to tie into the west side of SR 99. This portion of the FRWL is operated and maintained by MA3.

For the purposes of this document, the Project Area is defined as the area in which potential actions (i.e., alternatives) would occur. The affected area, also called the Planning or Study Area, is defined as the location of resources that would be directly, indirectly, or cumulatively affected by the Project, and varies depending on the resource.

### Project Characteristics

Levee remedial measures for the Project include construction of a cutoff wall, a berm tie-in to the SR 99 embankment, pipe penetration improvements, and surficial geometry corrections. Improvement measures were developed based on the 100-year DWSE provided in Design Water Surface Profiles for the Feather River West Levee Project, Addendum #2, dated December 2013 and prepared by Peterson Brustad, Inc. Table 1 details the Levee Remedial Measures.

Table 1. Levee Remedial Measures			
Station			Remedial Measure
Beginning	Ending	Length	
Beginning at 10+00 (FRWL) then north along SBEL		Up to 200 feet	SBEL Soil-Bentonite cutoff wall to El +10-feet. Depth = 38-feet
10+00	50+00	4,000	Soil-Bentonite cutoff wall to El +10-feet. Depth = 38-feet
50+00	97+00	3,700	Soil-Bentonite cutoff wall to El (-)15-feet. Depth = 64-feet
97+00, parallel to SR 99		100	Soil-Bentonite cutoff wall to El (-)15-feet. Depth = 64-feet
East of SR 99 to Sacramento Ave		Up to 500 feet	Soil Bentonite Cutoff wall or berm fill
52+25		-	Remove and replace existing levee penetration (pressure and gravity pipes)

Notes: Cutoff wall depths are measured from the levee working platform, which is approximately 6 feet below the levee crown.  
FRWL = Feather River West Levee; SBEL = Sutter Bypass East Levee

## Cutoff Walls

Seepage cutoff walls are vertical walls approximately 3 feet wide consisting of low hydraulic conductivity materials placed through the levee embankment and foundation to cutoff potential through and under seepage. To be effective for under seepage, cutoff walls usually tie into an impervious sublayer. Walls generally require no additional permanent levee footprint and are relatively inexpensive. However, the levee must be temporarily taken out of service and degraded to prevent hydraulic fracturing and to provide a working surface with sufficient width to accommodate cutoff wall excavation and placement.

Existing aggregate surfacing and topsoil layers on the levee segment would be stripped prior to starting cutoff wall placement operations. Stripped materials would be stockpiled for reuse where feasible. The levee crown would then be degraded by approximately one third of the overall levee height. Levee degrade material would be side cast along the land and/or water sides of the levee to establish the working surface. Cutoff walls would be placed through the center of the levee in a 3-foot-wide trench of 38 to 64 feet deep as measured from the levee working platform (measured 6 feet below the levee crown). Using the open-trench construction method, workers would fill the trench with a soil-bentonite slurry as the trench is excavated to keep the trench sidewalls from caving in during excavation. Material excavated from the trench would be mixed with bentonite slurry in appropriate proportions adjacent to the trench and then pushed back into the excavated trench. This process creates a wall through the center of the levee with reduced permeability.

After installation of the cutoff wall and the appropriate cutoff wall settlement period (typically 21 days), the levee embankment would be reconstructed to its original lines and grades. Surficial geometry issues would be addressed as part of levee reconstruction. The reconstructed embankment would include a 6- to 8-foot-wide clay core using Levee Embankment Fill Soil Type 1, which would be imported from one or more local borrow sources. The levee embankment outside of the clay core would be reconstructed utilizing Project excavations. Generally, the levee crown would be 20 feet in width, the landside slope would be two horizontal to one vertical (2H:1V), and the waterside slope would be 3H:1V.

Stripped topsoil may be placed on levee slopes, areas adjacent to levee slopes if possible, or hauled offsite. Aggregate base would be placed along the levee crown and on levee access ramps. Disturbed areas would be hydroseeded after levee construction is complete.

## Levee Improvements at SR 99

Additionally, remedial measures may extend east of SR 99 and may include a cutoff wall and a berm along the landside of the levee.

A cutoff wall along the west side of SR 99 would extend from the levee centerline, at station 97+00, northwest along the SR 99 embankment for 100 linear feet. Placement of the cutoff wall will require the construction of an earthen embankment that ties into the levee and the SR 99 embankments. The embankment will initially be constructed to the same elevation as the levee working platform. The embankment will be constructed to match existing levee crown elevations once the cutoff wall is in place and allowed to settle. The completed embankment would be approximately 75 feet in width (measured from the SR 99 toe of embankment to the cutoff wall embankment toe). A berm at the intersection of the FRWL and SR 99 would be placed along the landside levee toe and tie into the SR 99 embankment. The berm would be 5 feet tall at the levee toe and 3 feet tall at its end. Remedial measures along the east side of SR 99, cutoff wall or berm, would be as described above.

Areas to receive fill would be stripped to remove the topsoil layer. Where feasible, stripped materials would be stockpiled for reuse. Disturbed areas would be hydroseeded after levee construction is complete.

### **Levee Penetration**

Levee remediation measures for the Project include removal and replacement of an existing 18-inch pressure pipe crossing and two 18-inch gravity pipes (levee penetrations) near station 52+24. The pressure pipe and gravity pipes will be removed within the limits of the levee embankment and right-of-way. Removal of the pipes will require excavation of the levee slopes and adjacent areas. Generally, excavation for pipes removal and placement would be 5 feet wide at the bottom of the excavation, with 2H:1V side slopes. A new pressure pipe, with a positive closure device, would be reconstructed after cutoff wall placement and settlement period. The new pressure pipe would be constructed above the Design Water Surface Elevation (DWSE). Additionally, the two gravity pipes will be replaced with one 36- or 48-inch single gravity pipe.

### **Borrow Material Sources and Needs**

Fill material for the levee and clay core would be obtained from either one or more offsite borrow sources or from excess material obtained from Project excavations. The construction contractor will be required to obtain offsite borrow materials, which may be imported to the Project Site from local sources or existing permitted commercial sources. Sources of borrowed earthen materials are anticipated to be in the vicinity of Butte and Sutter counties. Other materials, such as aggregate base, bentonite for cutoff walls, pipe, concrete products, and materials needed to support construction, would be obtained from offsite commercial vendors and sources.

Offsite sources for materials are anticipated to be within 60 minutes from the Project Area.

### **Construction Schedule**

SBFCA is planning to complete construction in one construction season, beginning in April 2025 and ending in December 2025. Typical construction activities would occur up to 12 to 14 hours per day (based on daylight hours and the construction phase), six days per week, Monday through Saturday. Daily hours of operation would occur between 6 a.m. and 8 p.m. Sundays may be utilized for equipment maintenance. Crew sizes would vary depending on the construction phase and are estimated to be between 25 to 50 people. Work outside of the hours specified above for around-the-clock construction activities would be limited to cutoff wall installation, but only if approved by SBFCA and if justified to complete the Project on schedule.

### **Staging Areas**

Construction staging areas would be established within the Project Area along the land and water sides of the levee as needed. The construction contractor would use these areas for access, hauling, spoiling of material, storage, fueling, and other construction-related activities. Prior to and during construction of remedial measures, staging areas would be established to allow for efficient use and distribution of materials and equipment. Staging areas would be identified by the contractor during construction and would be located within the construction limits identified as the Project Area.

The landside areas at the intersection for the FRWL/Sutter Bypass East Levee (SBEL) and FRWL/SR 99 would be utilized for additional staging.

### Disposal of Excess Materials

Prior to the start of construction, the levee and work areas would be cleared and grubbed to remove debris, rubble, trash, and other deleterious items. Waste collected from the clearing and grubbing operations would be taken to commercial waste or recycling facilities as appropriate. Some construction waste materials would be generated and require disposal.

## 3.0 PERMITS, AND APPROVALS

SBFCA is the Lead Agency for the Project and has discretionary authority over the Project, which includes, but is not limited to, Certification of the Final EIR, and Adoption of an MMRP.

The following additional approvals and regulatory permits listed in Table 2 are anticipated to be required for implementation of the Project:

Table 2. Required Regulatory Permits and Approvals	
Approval or Permit	Organization
Encroachment Permit	Central Valley Flood Protection Board
408 Permission	USACE
Clean Water Act Section 404 Permit	USACE
Clean Water Act Section 401 Water Quality Certification	Central Valley RWQCB
Porter-Cologne Water Quality Act Waste Discharge Requirement	Central Valley RWQCB
California Fish and Game Code section 1600 SAA	CDFW
Section 7 Consultation/Biological Opinion	USFWS (issued to USACE)
California ESA Incidental Take Permit	CDFW
National Pollutant Discharge Elimination System Permit for Storm Water Discharges Associated with Construction Activities	Central Valley RWQCB

Notes:

CDFW = California Department of Fish and Wildlife; ESA = Endangered Species Act; RWQCB = Regional Water Quality Control Board; SAA = Streambed Alteration Agreement; USACE = U.S. Army Corps of Engineers; USFWS = U.S. Fish and Wildlife Service

## 4.0 STATEMENT OF OBJECTIVES

The objectives of the Project include:

1. Protect existing populations and minimize exposure to flooding for agricultural commodities, infrastructure use, and other property.
2. Reduce flood risk from Feather River toward a target of 200-year protection for urban areas of Sutter County to the north of the planning area, in compliance with Senate Bill 5 mandates, and 100-year protection for rural areas south of Yuba City.
3. Address known deficiencies and observed performance issues.
4. Construct a project as soon as possible to reduce flood risk as quickly as possible.

5. Construct a project that is economically, environmentally, politically, and socially acceptable.
6. Facilitate compatibility with the Central Valley Flood Protection Plan and Sutter Basin Feasibility Study such that proposed activities would result in *no regrets*<sup>1</sup> and not be inconsistent with any future plans.
7. Facilitate compatibility with recreation and restoration goals in the planning area.

## 5.0 ENVIRONMENTAL REVIEW/PUBLIC PARTICIPATION

SBFCA conducted an extensive review of this Project, which included a Draft EIR and a Final EIR, including technical reports, along with a public review and comment period. The following is a summary of the SBFCA's environment review of this Project:

- Pursuant to the provision of CEQA Guidelines Section 15082, as amended, SBFCA circulated a Notice of Preparation (NOP) to public agencies, special districts, and members of the public who had requested such notice for a 30-day period. The NOP was submitted to the State Clearinghouse on January 6, 2023, with the 30-day review period ending on February 6, 2023.
- The NOP public review period ran for 30 days. SBFCA received two comment letters from governmental agencies. The scope of the issues identified in the comments included requirements applicable to the Project regarding biological resources and flood plain management building.
- The Draft EIR was distributed for public review and a Notice of Availability was filed with the State Clearinghouse on May 16, 2023, for a 45-day review period, which concluded on July 3, 2023.
- SBFCA received a total of three comment letters on the Draft EIR: two from public agencies and one from the United Auburn Indian Community of the Auburn Rancheria. The comments are contained in the Final EIR.
- In accordance with Public Resources Code Section 21092.5, the SBFCA provided written responses to public agencies that commented on the Draft EIR, which are also contained in the Final EIR.

## 6.0 INDEPENDENT JUDGMENT AND FINDING

SBFCA retained ECORP Consulting, Inc. (ECORP) to prepare the EIR. ECORP prepared the EIR under the supervision and direction of the SBFCA staff. All findings set forth herein are based on substantial evidence in the record as indicated with respect to each specific finding.

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<sup>1</sup>*No regrets* in this context means that if work has to be carried out in stages due to funding restrictions, nothing that was added has to be taken out before further improvements can be made.

## 6.1 Finding

The EIR for the Project reflects SBFCA's independent judgment. SBFCA has exercised independent judgment in accordance with Public Resources Code Section 21082.1(c)(3) in retaining its own environmental consultant and directing the consultant in the preparation of the EIR. SBFCA has independently reviewed and analyzed the EIR and accompanying studies and finds that the report reflects the independent judgment of SBFCA.

The SBFCA Board of Directors has considered all the evidence presented in its consideration of the Project and the EIR, including, but not limited to, the Final EIR and its supporting studies, written and oral evidence presented at hearings on the Project, and written evidence submitted to SBFCA by individuals, organizations, regulatory agencies, and other entities. On the basis of such evidence, the SBFCA Board of Directors finds that with respect to each environmental impact identified in the review process, the impact: (1) is less than significant and would not require mitigation; or (2) is potentially significant but would be avoided or reduced to a less than significant level by implementation of identified mitigation measures.

The EIR concluded that construction and operation of the Project would not cause significant adverse environmental effects that cannot be avoided or reduced to a less than significant level. Therefore, no Statement of Overriding Considerations is necessary for the Project.

## 7.0 ENVIRONMENTAL IMPACTS AND FINDINGS

### 7.1 Effects determined to be less than significant without mitigation in the EIR

The EIR found that the Project would have a less than significant impact with respect to the environmental topic areas listed below. A detailed analysis of the topic areas is provided within the EIR.

#### **Finding:**

The SBFCA Board of Directors finds that based on substantial evidence in the record, the following impacts, to the extent they result from the Project, will be less than significant or have no impact.

#### **Aesthetics**

- Have a substantial adverse effect on a scenic vista.
- Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.
- Degrade the existing visual character or quality of public views of the site or its surroundings.
- Result in a considerable contribution to cumulative impacts on scenic vistas.

## **Agriculture and Forestry Resources**

- Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.
- Conflict with existing zoning for agricultural use, or a Williamson Act contract. and
- Impact forestry resources.

## **Air Quality**

- Expose sensitive receptors to substantial pollutant concentrations (i.e., carbon monoxide hot spots or toxic air contaminants).
- Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.

## **Biological Resources**

- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. and
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

## **Energy**

- Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during Project construction or operation.
- Conflict with or obstruct a state or local plan for renewable energy or energy efficiency. and
- Result in a considerable contribution to cumulative impacts on energy consumption.

## **Geology and Soils**

- Cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, including liquefaction, or landslides.
- Result in substantial soil erosion or the loss of topsoil.
- Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.
- Be located on expansive soil, as defined by Table 18-1-B of the Uniform Building Code, creating substantial direct or indirect risks to life or property.
- Use soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater.
- Result in a considerable contribution to cumulative impacts on geology and soils.

## **Greenhouse Gas Emissions**

- Generate Greenhouse Gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment.
- Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. and
- Result in a considerable contribution to cumulative impacts associated with greenhouse gas emissions.

## **Hazards and Hazardous Materials**

- Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment.
- Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.
- For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard for people residing or working in the Project Area.
- Result in a considerable contribution to cumulative impacts associated with hazards and hazardous materials.

## **Hydrology and Water Quality**

- Violate water quality standards or waste discharge requirements or otherwise substantially degrade surface water or groundwater quality.
- Substantially alter the existing drainage pattern of the Project area or vicinity, including through the alteration of the course of a stream or river or through the addition of impervious surfaces.
- Risk release of pollutants in flood hazard, tsunami, or seiche zones, due to Project inundation.
- Result in a considerable contribution to cumulative impacts on hydrology and water quality.

## **Land Use and Planning**

- Divide an established community.
- Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.
- Result in a considerable contribution to cumulative impacts on land use and planning.

## **Mineral Resources**

- Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State. and

- Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan.

### **Noise**

- Generate excessive groundborne vibration or groundborne noise levels.
- For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, expose people residing or working in the Project Area to excessive noise levels.

### **Population and Housing**

- Induce substantial unplanned population growth either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure).
- Displace substantial numbers of people or housing, necessitating the construction of replacement housing elsewhere. and
- Result in a considerable contribution to cumulative impacts on population and housing.

### **Public Services**

- Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which would cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection and emergency medical services, police protection, schools, and libraries. and
- Result in a considerable contribution to cumulative impacts on fire protection and emergency medical services, police protection, schools, or libraries.

### **Recreation**

- Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.
- Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment. and
- Result in a considerable contribution to cumulative impacts on recreation.

### **Transportation**

- Conflict with an applicable program, plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle, and pedestrian facilities.
- Result in a significant increase in vehicle miles traveled.
- Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).
- Result in a considerable contribution to cumulative impacts on transportation.

## Utilities And Service Systems

- Require or result in the relocation or construction of new or expanded water, wastewater treatment, or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which would cause significant environmental effects.
- Not have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry, and multiple dry years.
- Result in a determination by the wastewater treatment provider which serves or may serve the Project that it does not have adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments.
- Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals.
- Fail to comply with Federal, State, and local management and reduction statutes and regulations related to solid waste.
- Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the basin.
- Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.
- Result in a considerable contribution to cumulative impacts on water and wastewater services.
- Result in a considerable contribution to cumulative impacts on solid waste generation.
- Result in a considerable contribution to cumulative impacts on groundwater supply.

## Wildfire

- Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.
- Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires.
- Expose Project occupants to pollutant concentrations from a wildfire or exacerbate wildfire risks and the uncontrolled spread of a wildfire due to slope, prevailing winds, and other factors.
- Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment.
- Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.
- Result in a considerable contribution to cumulative impacts on wildfire management.

## 7.2 Effects Determined to be Mitigated to Less Than Significant Levels

SBFCA, having reviewed and considered the information contained in the EIR, the Technical Appendices and the administrative record, finds, pursuant to California Public Resources Code 21081 (a)(1) and CEQA Guidelines 15091 (a)(1), that changes or alterations have been required in, or incorporated into, the Project, which would avoid or substantially lessen to below a level of significance potentially significant environmental effects identified in the EIR. The potentially significant adverse environmental impacts that can be mitigated are listed below. SBFCA finds that these potentially significant adverse impacts can be mitigated to a level that is considered less than significant after implementation of mitigation measures identified in the EIR.

Implementation of the Project would result in a considerable impact to aesthetics.

### Findings

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined to not be significant.

### Facts in Support of Findings

The potential light and glare impacts have been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

### Mitigation Measures:

- AES-1**      **Lighting.** To the maximum extent feasible, Project lighting shall be directed and shielded to focus illumination on the desired areas only and avoid directing light into adjacent areas.
- AES-2**      **Implement a Community Outreach Program.** SBFCA will provide advance public notification to residents located within a 1-mile radius to the Project regarding planned construction activities, including activities that must be performed at night or on weekends. Mail and, where feasible, emails to nearby residents shall be sent notifying them of unavoidable nighttime or weekend construction activities each year prior to construction.

Implementation of the Project would result in a considerable impact to biological resources

The Project's potential impacts on biological resources that can be mitigated or are otherwise less than significant are discussed in Section 4.4, Biological Resources, of the EIR. Identified impacts include adverse effects, either directly or through habitat modifications, several species identified as a candidate, sensitive, or special status species, riparian habitat, State or Federally protected wetlands, and cumulative impacts.

Implementation of the Proposed Project would have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California department of Fish and Wildlife or U.S. Fish and Wildlife Service.

## Findings

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

## Facts in Support of Findings

The potential impacts to candidate, sensitive, or special status species have been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

## Mitigation Measures:

**BIO-1:** The Project will implement erosion control measures and Best Management Practices (BMPs) to reduce the potential for sediment or pollutants at the Project Site. Measures shall include:

- Erosion control measures will be placed between aquatic resources, and the outer edge of the staging areas, within an area identified with highly visible markers (e.g., construction fencing, flagging, silt barriers) prior to commencement of construction activities. Such identification and erosion control measures will be properly maintained until construction is completed and the soils have been stabilized.
- Fiber rolls used for erosion control will be certified by the California Department of Food and Agriculture as weed free.
- Seed mixtures applied for erosion control will not contain California Invasive Plant Council designated invasive species (<http://cal-ipc.org/>) and will be composed of native species appropriate for the site.
- Trash generated onsite will be promptly and properly removed from the site.
- Any fueling in the upland portion of the Project Area will use appropriate secondary containment techniques to prevent spills.
- A qualified biologist will conduct a mandatory Worker Environmental Awareness Program for all contractors, work crews, and any onsite personnel on the potential for special status species to occur on the Project Site. The training will provide an overview of habitat and characteristics of the species, the need to avoid certain areas, and the possible penalties for non-compliance.

**PLANT-1:** Preconstruction floristic surveys shall be conducted for any areas of vegetation removal in the Project Area with the potential to support habitat for Boggs-lake hedge hyssop, woolly-rose mallow, Sanford's arrowhead, or Suisun marsh aster. The area of ground disturbance and a 25-foot buffer would be surveyed by a qualified biologist during the appropriate blooming period prior to the start of Project activities. If no special status species are found during the preconstruction surveys, no further measures are necessary. If surveys identify any special-status plants, the Project Proponent shall identify them with flagging and avoid them with a 25-foot no-disturbance buffer during Project activities. If this avoidance is not feasible, the Project Proponent shall consult with CDFW to determine whether alternative avoidance measures that are equally protective are possible.

- FISH-1:** To avoid and minimize potential adverse effects to listed and special status fish species, the following shall be implemented:
- Minimize the removal of riparian and aquatic vegetation.
  - Deploy measures, as practicable, to reduce sediment resuspension such as a turbidity curtain.
  - In-water Project activities will require de-watering of surrounding area (if water is present), and a fish rescue/relocation effort completed by a qualified fisheries biologist.
  - A qualified fisheries biologist should perform a fish exclusion from the in-water construction footprint using seines, if necessary.
  - If the Project requires pouring concrete, avoid allowing wet uncured concrete to contact surface water, and conduct water quality monitoring to ensure that the wet concrete is not affecting the pH of the surface water.
- NPT-1:** Conduct a pre-construction survey for northwestern pond turtle and their nests 48 hours prior to construction activities. Any northwestern pond turtle individuals discovered in the Project work area immediately prior to or during Project activities shall be allowed to move out of the work area of their own volition. If this is not feasible, they shall be captured by a qualified wildlife biologist and relocated out of harm's way to the nearest suitable habitat at least 100 feet from the Project work area where they were found.
- GGG-1:** Prior to the start of ground-disturbing activities in areas considered potential habitat for giant garter snake, a qualified biologist shall conduct a preconstruction survey. This survey shall be conducted within 48 hours prior to the start of ground disturbing activities. If a giant garter snake is found, the biologist shall allow the animal to leave on its own volition.
- Coverage from USFWS under Sections 7 or 10 of the ESA will be required for any impacts to giant garter snake and/or their habitat. In addition, take coverage from CDFW under Section 2081 of the California Fish and Game Code will be required for any impacts to giant garter snake and/or its habitat.
- BIRD-1:** To protect nesting birds, no Project activity shall begin from February 1 through August 31 unless the following surveys are completed by a qualified wildlife biologist. Separate surveys and avoidance requirements are listed below for all nesting birds, raptors, including bald eagle, and Swainson's hawk.
- All Nesting Birds (Non-raptors) - If Project construction begins during February 1 through August 31, a qualified biologist will perform a preconstruction nesting bird survey within 7 days prior to construction (or less if recommended by CDFW), within the Project work area and a 100-foot radius. If any active nests are observed, these nests shall be designated a sensitive area and protected by an avoidance buffer established in coordination with CDFW until a qualified biologist has determined that the young have fledged and are no longer reliant upon the nest or parental care for survival.
  - Raptors - If Project construction begins during February 1 through August 31, a qualified biologist will perform a preconstruction nesting raptor survey within 7 days prior to construction (or less if recommended by CDFW), within the Project work area and a 500-foot radius. If any active raptor nests are observed, these nests shall be designated a sensitive area and protected by

an avoidance buffer established in coordination with CDFW until a qualified biologist has determined that the young have fledged and are no longer reliant upon the nest or parental care for survival.

- Burrowing Owl - A qualified wildlife biologist shall survey for burrowing owl within the Project work area and a 250-foot radius of the Project work area within 7 days prior to starting Project activities. Surveys shall be conducted at appropriate times (dawn or dusk) to maximize detection. If any occupied burrows are observed, these burrows shall be designated a sensitive area and protected by an avoidance buffer established in coordination with CDFW. Consult with CDFW to develop avoidance and minimization measures, which could include preparing and implementing a passive relocation plan.
- Swainson's Hawk - If Project construction begins during March 1 through August 31, a qualified biologist will perform a preconstruction nesting Swainson's hawk survey within 7 days prior to construction (or less if recommended by CDFW), within the Project work area and a 0.25-mile radius. If any active nests are observed, these nests shall be designated a sensitive area and protected by an avoidance buffer established in coordination with CDFW until the breeding season has ended or until a qualified biologist has determined that the young have fledged and are no longer reliant upon the nest or parental care for survival.
- To encourage yellow-billed cuckoos to choose nesting sites away from construction activities, crews will make every effort possible to begin construction activities within 500 feet of suitable habitat before the start of the breeding season (i.e., before May 31).
- If construction activities occur during the yellow-billed cuckoo nesting season (June 1 to September 30) and if it is anticipated that construction-related disturbances within 500 feet of suitable habitat cannot be avoided, protocol surveys for yellow-billed cuckoo will be conducted. Surveys will follow the latest version of A Natural History Summary and Survey Protocol for the Western Distinct Population Segment of the Yellow-billed Cuckoo (Halterman et al. 2016).
- Biologists will coordinate with the USFWS and CDFW prior to conducting surveys. Survey methods and results will be reported to the USFWS and CDFW at the conclusion of the surveys. If cuckoos are detected during surveys, the nest or general location, will be mapped by the biologists and a 500-foot buffer will be established, or other distance as approved by the USFWS and CDFW, no-disturbance buffer between construction activities and the area identified. The no-disturbance buffer will be maintained until it has been determined by a qualified biologist that young have fledged or the nest is no longer active.
- If removal of vegetation identified as suitable habitat is proposed, consultation with USFWS may be required. Through the Clean Water Act (CWA) Section 404 and/or 408 Permit, request the USACE initiate ESA Section 7 Consultation with USFWS, if necessary, on the Project effects to ESA-listed yellow-billed cuckoo.

**MAM-1:** A qualified biologist will conduct a bat habitat assessment for suitable roosting habitat prior to any construction activities. The habitat assessment should be conducted at least one year prior to the initiation of construction activities. If no suitable roosting habitat is identified, no further measures are necessary. If suitable roosting habitat and/or signs of bat use is identified during the assessment, the roosting habitat should be avoided to the extent possible, and the following shall be implemented:

- If suitable roosting habitat and/or signs of bat use is identified in a tree or other habitat structure that much be removed, a qualified biologist shall prepare a Bat Management Plan for CDFW's review. The Plan shall identify methods for determining occupation of the roosting habitat by special-status bats (e.g., acoustic monitoring, evening emergence surveys). If an active bat roost is found, a plan for passive exclusion of bats from the roost will be prepared for CDFW's review. Exclusion shall be scheduled either (1) between approximately March 1 (or when evening temperatures are above 45 degrees Fahrenheit [°F] and rainfall less than 0.5 inch in 24 hours occurs) and April 15, prior to parturition of pups; or (2) between September 1 and October 15 (or prior to evening temperatures dropping below 45°F and onset of rainfall greater than 0.5 inch in 24 hours). The qualified biologist shall monitor the roost prior to exclusion to confirm that it does not support a maternity colony. If a maternity colony is or may be present, the roost shall be avoided until it is no longer active, or until the qualified biologist can confirm that no maternity colony is present.

Implementation of the Project would have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.

## Findings

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

## Facts in Support of Findings

The potential for substantial adverse effects on riparian habitat have been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

## Mitigation Measures:

**RIP-1:** A Streambed Alteration Agreement (SAA), pursuant to Section 1602 of the California Fish and Game Code, must be obtained for any activity that will impact riparian habitats and/or bed and bank features. Minimization measures will be developed during consultation with CDFW as part of the SAA agreement process to ensure protections for affected fish and wildlife resources. If applicable, compensatory mitigation may be required for removal of riparian vegetation.

Implementation of the Project would have a substantial adverse effect on any state or federally protected wetlands (including but not limited to marsh, vernal pool, coastal, etc.) Through direct removal, filling, hydrological interruption, or other means.

## Findings

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

## Facts in Support of Findings

The potential for substantial adverse effects on wetlands have been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

## Mitigation Measures:

- WTR-1: To avoid or minimize anticipated short-term adverse effects to Waters of the U.S., the following shall be implemented:
- The removal and replacement of the outfall has potential to discharge into Waters of the U.S., a Nationwide Permit (NWP), potentially NWP 3, under Section 404 of the federal CWA must be obtained from USACE. The impacts from such actions are expected to be mostly temporary, with minimal, if any, permanent impacts to aquatic resources.
  - A Water Quality Certification or waiver pursuant to Section 401 of the CWA, as issued by the Regional Water Quality Control Board (RWQCB), must be obtained for Section 404 permit actions.
  - Waste Discharge Requirement for dredge and fill in Waters of the State under the Porter-Cologne Water Control Act as issued by RWQCB must be obtained for impacts to waters of the state.

Implementation of the Project would interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

## Findings

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

## Facts in Support of Findings

The potential to interfere substantially with the movement of any native or migratory fish or wildlife species has been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

### **Mitigation Measures:**

Implementation of mitigation measures BIO-1 and BIRD-1 will be required. Implementation of the Project would result in a considerable contribution to cumulative impacts to biological resources.

### **Findings**

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

### **Facts in Support of Findings**

The potential for the Project to have a considerable contribution to cumulative impacts has been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

### **Mitigation Measures:**

Implementation of mitigation measures BIO-1, PLANT-1, FISH-1, NPT-1, GGS-1, BIRD-1, MAM-1, RIP-1, and WTR-1 will be required.

Implementation of the Project would result in a considerable impact to cultural resources

The Project's potential impacts on cultural resources that can be mitigated or are otherwise less than significant are discussed in Section 4.5, Cultural Resources, of the EIR. Identified impacts include potential to cause a substantial adverse change in the significance of a historic or archeological resource, or disturb human remains. The Project could also result in cumulative impacts to cultural resources. Each Cultural Resources impact criterion is discussed below.

Implementation of the Project would cause a substantial adverse change in the significance of a historic resource pursuant to CEQA guidelines 15064.5.

### **Findings**

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

### **Facts in Support of Findings**

The potential for a substantial adverse change in the significance of a historical resource has been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

### **Mitigation Measures:**

**CUL-1:** Archaeological Monitoring. Prior to and during ground-disturbing construction, SBFCA will take the following actions in the event of inadvertent discovery of cultural resources.

- All ground-disturbing work will be monitored by a qualified professional archaeologist. The monitors' tasks will include observing the active excavation of materials, as well as periodically checking excavated substrate and ensuring the respectful and culturally-appropriate treatment of finds. The monitor will be provided sufficient workspace and an unobstructed view of excavations. SBFCA will authorize the archaeological monitor to pause construction within an area up to 100 feet radius, through the construction manager, periodically as needed for a closer examination of exposed sediments and/or artifacts and the monitor shall implement CUL-2, if necessary. The monitor will record their daily observations on a standard field form.
- The requirements for a monitor should be inclusive of all day and night construction activity that has the potential to result in ground disturbance. Ground-disturbing activity is defined herein as any activities that have the potential to disturb soil beyond that which was reasonably visible to archaeologists during the pre-Project pedestrian survey. This includes initial vegetation removal; grading; trenching; if such activity will bring soil to the surface, excavation for below-ground utility installation or foundation work; and any other below-ground activities. Monitoring is not necessary for backfilling of previously excavated areas, levee reconstruction, or for any aboveground Project activity that does not include ground disturbance. Monitoring shall be documented daily with photographs and logs and the results compiled in a report submitted by the qualified archaeological monitor at the conclusion of monitoring activities.

**CUL-2:** Post-Review Discoveries. The monitoring archaeologist shall be responsible for taking into account any tribal recommendations when making the following decisions.

- If the monitoring archaeologist determines that the find is not a cultural resource (such as water-worn cobbles or accumulations of natural materials), no additional action is necessary. Should Tribal representatives desire to take possession of those materials, they may do so as long as the possession is documented by the archaeological monitor and as long as removal has been approved in writing by the property owner; however, taking possession does not obligate SBFCA or the USACE to provide financial support for storing, processing, or reburying materials that are not cultural resources. Until a determination is made by the monitoring archaeologist about whether or not the find is subject to further consideration under CEQA and Section 106, Tribal representatives shall not remove or take possession of materials or objects observed.
- If the find is determined by the monitoring archaeologist to be redeposited material that lacks primary context, is discovered only in the excavated soils, spoil piles, or stockpiles, or is otherwise not in its original context or place of deposition and does not contain human remains, this discovery is not potentially eligible for the National Register of Historic Places (NRHP) or California Register of Historic Resources (CRHR). The archaeological monitor will assign a temporary field number, take a photograph, record its location with a Global Positioning System receiver, and describe the constituents in field notes. If the redeposited find is associated with European or non-Native American culture, the find may be left in place or discarded in order to not interfere with Project activities. If the find is associated with

Native American culture, following consultation with the lead agencies, should Tribal representatives desire to take possession of those materials or act in any manner consistent with the Tribal cultural resources treatment plan, they may do so as long as the possession is documented by the archaeological monitor and as long as permission has been granted in writing by the property owner. However, taking possession does not obligate SBFCA or the USACE to provide financial support for storing, processing, or reburial of materials that are not eligible for the NRHP or CRHR. If the find was made in spoil piles and stockpiles, the material may be reused by the Project and returned to the levee and will not be subject to screening; however, tribal representatives may take possession of any items found in spoils as long as doing so does not interfere with the Project activities.

- If a Tribal representative disagrees with the determination by the monitoring archaeologist that a discovery is either not a cultural resource or represents a redeposit, no material collection may occur by any party, and the Tribal Historic Preservation Officer (THPO) of the dissenting tribe shall notify the USACE and SBFCA within 48 hours of discovery. All timelines specified in 36 Code of Federal Regulations (CFR) 800.13(b) shall be applied in the event of an archaeological discovery. The USACE will review information submitted by the THPO and communicate its decision to the THPO and State Historic Preservation Officer (SHPO), in accordance with 36 CFR 800.13(b). If the contractor denies the request to stop work at that location during the appeal process (see above), and if the USACE determines that the find does represent an historic property, the USACE and SBFCA will take into consideration the post-discovery impacts to the resource when determining the scope of the effort required to resolve any adverse effect.
- If the find is determined by the monitoring archaeologist to be in original context (in original place of deposition) and does not contain human remains, and that it constitutes a resource that could not have been discovered prior to construction, the USACE and SBFCA shall consult on appropriate treatment, in consultation with Tribal representatives, pursuant to 36 CFR Section 800.13(b) and CEQA, respectively.

Implementation of the Project would cause a substantial adverse change in the significance of an archeological resource pursuant to CEQA guidelines 15064.5.

## Findings

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

## Facts in Support of Findings

The potential for a substantial adverse change in the significance of an archeological resource has been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

### **Mitigation Measures:**

Implementation of mitigation measures CUL-1 and CUL-2 will be required.

Implementation of the Project would disturb any human remains, including those interred outdoors of formal cemeteries.

### **Findings**

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

### **Facts in Support of Findings**

The potential for disturbing any human remains has been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

### **Mitigation Measures:**

Implementation of mitigation measure TCR-6 (see TCR section below) will be required.

Implementation of the Project would result in a considerable contribution to cumulative impacts on cultural resources.

### **Findings**

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

### **Facts in Support of Findings**

The potential for the Project to considerably contribute to cumulative impacts to cultural resources has been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

### **Mitigation Measures:**

Implementation of mitigation measures CUL-1, CUL-2, and TCR-6 will be required.

Implementation of the Project would result in a considerable impact to geology and soils

The Project's potential impacts on geology and soils that can be mitigated or are otherwise less than significant are discussed in Section 4.7, Geology and Soils, of the EIR. Identified impacts include the possibility of disturbing unanticipated paleontological resources that could be encountered during ground-disturbing Project-related activities, and cumulative impacts.

Implementation of the Project would directly or indirectly destroy a unique paleontological resource or site or unique geological feature.

## Findings

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

### Facts in Support of Findings

The potential for the Project to directly or indirectly destroy a unique paleontological or geological resource has been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

### Mitigation Measures:

**GEO-1:** Unanticipated Discovery of Paleontological Resources: If paleontological or other geologically sensitive resources are identified during any phase of Project development, the construction manager shall cease operation at the site of the discovery and immediately notify SBFCA. SBFCA shall retain a qualified paleontologist to provide an evaluation of the find and to prescribe mitigation measures to reduce impacts to a less than significant level. In considering any suggested mitigation proposed by the consulting paleontologist, the SBFCA shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, Project design, costs, land use assumptions, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the Project Site while mitigation for paleontological resources is carried out.

Implementation of the Project would result in a considerable impact to hydrology and water quality

The Project's potential impacts on hydrology and water quality that can be mitigated or are otherwise less than significant are discussed in Section 4.9, Hazard and Hazardous Materials, of the EIR. Identified impacts include potential for spills of hazardous materials and fuels during construction and fueling activities.

Implementation of the Project would create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

## Findings

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

### Facts in Support of Findings

The potential for the Project to create a significant hazard through the routine transport, use, or disposal of hazardous materials has been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

### **Mitigation Measures:**

HAZ-1: Vehicles shall be moved away from the Feather River prior to refueling and lubrication, as well as for conducting repairs, if feasible. Staging and storage areas for equipment, materials, fuels, and lubricants and solvents shall be located well away from the top of bank and riparian areas. Stationary equipment such as motors, pumps, generators, compressors, and welders located within or adjacent to Waters of the State shall be positioned over drip-pans. Debris, refuse, oil, gasoline or diesel fuel, or other petroleum products, or any other substances that could be hazardous to aquatic life resulting from Project activities shall be prevented from contaminating the soil and/or entering Waters of the State. Absorbent materials designated for spill containment shall be used for all activities performed in or within 50 feet of a watercourse that involve use of hazardous materials to be used for spill response and cleanup in the event of an accidental spill.

Implementation of the Project would create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

### **Findings**

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

### **Facts in Support of Findings**

The potential for the Project to create a significant hazard through reasonably foreseeable upset or accident conditions involving the release of hazardous materials into the environment has been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

### **Mitigation Measures:**

Mitigation measure HAZ-1 will be required.

Implementation of the Project would result in a considerable impact to noise

The Project's potential impacts on Noise that can be mitigated or are otherwise less than significant are discussed in Section 4.13, Noise, of the EIR. Identified impacts include potential for generating a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of the standards established in in the local general plan or noise ordinance, or applicable standards of other agencies.

Implementation of the Proposed Project would generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of the standards established in in the local general plan or noise ordinance, or applicable standards of other agencies.

## Findings

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

### Facts in Support of Findings

The potential for the Project to create a substantial temporary or permanent increase in ambient noise levels in the Project area has been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

### Mitigation Measures:

**NOI-1: Haul Truck Hours.** The Project applicant and/or its contractor shall limit all Project construction haul trucks, including delivery trucks, to the daytime hours between 7:00 a.m. and 6:00 p.m. on weekdays and 8:00 a.m. and 5:00 p.m. on Saturdays. All Project haul truck traffic on Sundays and holidays shall generally be prohibited unless permission has been applied for and granted by the County.

Implementation of the Project would result in a considerable contribution to cumulative noise and vibration impacts.

## Findings

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

### Facts in Support of Findings

The potential for the Project to considerably contribute to cumulative noise and vibration impacts has been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

### Mitigation Measures:

Implementation of mitigation measure NOI-1 will be required.

Implementation of the Project would result in a considerable impact to transportation

The Project's potential impacts on transportation that can be mitigated or are otherwise less than significant are discussed in Section 4.17, Transportation, of the EIR. Identified impacts include potential to result in inadequate emergency access.

Implementation of the Proposed Project would result in inadequate emergency service.

## Findings

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

## Facts in Support of Findings

The potential for the Project to result in inadequate emergency service has been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

### Mitigation Measures:

**TRANS-1:** All construction activities and truck traffic on area roadways shall cease during an event requiring emergency evacuations in Sutter or Yuba counties

Implementation of the Project would result in a considerable impact to tribal cultural resources. The Project's potential impacts associated with Tribal Cultural Resources (TCRs) that can be mitigated or are otherwise less than significant are discussed in Section 4.18, Tribal Cultural Resources, of the EIR. Identified impacts include causing a substantial adverse change in the significance of a Tribal Cultural Resource during ground-disturbing activities, and cumulative impacts to Tribal Cultural Resources.

Implementation of the Proposed Project would cause a substantial adverse change in the significance of a tribal cultural resource.

## Findings

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

## Facts in Support of Findings

The potential for the Project to cause a substantial adverse change in the significance of a Tribal Cultural Resource has been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

### Mitigation Measures:

**TCR-1: Geoarchaeological Profiling.** After a Section 408 permit is obtained from the USACE, the tribe and Project archaeologist shall expose and document the soil profiles within or adjacent to the levee prism. These profiles shall be exposed by equipment under the direction of a qualified geoarchaeologist in three to ten locations along the levee using auger tests or trenching, all of which would be monitored by tribal monitors. The location of these profiles shall be selected by the Tribe from areas within the Project Area that are approved for ground disturbance. The results of these tests shall inform the levels and locations of slow degrade and focused monitoring (TCR-4 and 6). If the geoarchaeological profiling does not reveal any evidence of cultural deposits, the slow degrade may not be necessary. The exposed soil may be retained on-site and may be reburied, at tribal request.

**TCR-2: Develop a Burial Treatment Agreement.** In the event of the identification of Native American human remains and the United Auburn Indian Community (UAIC) has been designated Most Likely Descendant (MLD) by the Native American Heritage Commission (NAHC), SBFCA will develop a Burial Treatment

Agreement (BTA) in consultation with the UAIC. The BTA will govern the disposition and treatment of all human remains, objects, and soil disturbed or removed from the Project Area. The BTA shall include provisions for reburial as close as possible to the original location from which they were obtained. Scientific handling, or testing will only be conducted if the tribe consents to such handling or testing and the USACE and SHPO do not object to such treatment.

**TCR-3: Cultural Sensitivity Training.** All personnel involved in Project construction, including field consultants and construction workers, are required to undergo cultural resources and TCRs sensitivity and awareness training program through development and implementation of a Worker Environmental Awareness Program (WEAP). The WEAP will be developed in coordination with an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archeology, as well as culturally affiliated Native American tribes. SBFCA shall invite a Native American representative from interested culturally affiliated Native American tribes to participate. The WEAP shall be conducted before any Project-related construction activities begin at the Project location. The WEAP will include relevant information regarding sensitive cultural resources and TCRs, including applicable regulations, protocols for avoidance, and consequences of violating state laws and regulations. The WEAP will also describe appropriate avoidance and impact minimization measures for cultural resources and TCRs that could be located at the Project Site and will outline what to do and who to contact if any potential cultural resources or TCRs are encountered. The WEAP will emphasize the requirement for confidentiality and culturally appropriate treatment of any discovery of significance to Native Americans and will discuss appropriate behaviors and responsive actions, consistent with Native American tribal values.

**TCR-4: Tribal Monitoring.** All ground disturbing activity or activity that has the potential to disturb TCRs shall be monitored by a qualified tribal monitor representing a consulting tribe. This includes any fence installation, staging work, clearing and grubbing, and levee degrade. The monitor must be given a minimum of 7 days' notice of the opportunity to be present during these activities and may coordinate closely with the archaeological monitor, to observe work activities, and assist in ensuring that sensitive TCRs are not adversely affected. The monitor shall be given a reasonable opportunity to inspect soil and other material as work proceeds to assist in determining if resources significant to the tribes are present. If a potential tribal resource is identified by the monitor, they may pause or redirect work temporarily in order to closely inspect the potential discovery. If the tribe cannot recommend a monitor or if the tribal monitor does not report at the scheduled time, all work may continue as long as the specified notice of 7 days was provided.

Recovery of cultural items, reburial preparation, and reburial shall also be conducted by Tribal Monitors.

**TCR-5: Discoveries.** Any potential TCRs observed in any location will be subject to the decision process in CUL-2 and subsequent consultation between the monitoring tribe and the lead agencies to evaluate and, if necessary, treat the discovery of the satisfaction of the lead agencies.

If the discovery includes human remains, then the procedures in TCR-7 shall apply. If the discovery is determined to not be a tribal cultural resources by UAIC

but is determined by the consulting archaeologist or SBFCA to be a non-tribal cultural or archaeological resource, then the consulting archaeologist shall follow the procedures therein and as generally described in CUL-2 without further involvement by the tribal monitors or tribe(s). SBFCA shall consult with USACE on appropriate treatment.

**TCR-6: Slow Degrade.** Based on the results of geoarchaeological profiling in TCR-1 and other relevant information, UAIC shall select various locations along the Project totaling not more than 1,500 linear feet along the levee to undergo a “slow degrade” of the upper third of the levee prior to construction of the cutoff wall. In the areas of slow degrade, the excavator shall use a bucket no wider than 6 feet with a flat blade (no teeth) under the observation of a tribal monitor to remove soil in 4 to 6-inch lifts (depths) to allow for examination by monitors.

**TCR-7: Human Remains.** In the event that suspected Native American human remains in any state of decomposition or skeletal completeness are found during Project activities, SBFCA shall immediately halt ground disturbing activity at that location and within a 100-foot radius and contact the County Coroner. The Coroner shall ensure that notification is provided to the NAHC as required by California Health & Safety Code § 7050.5 and Public Resources Code (PRC) § 5097.98(a). Health and Safety Code Section 7050.5 establishes the authority of the County Coroner regarding the discovery of human remains and the role of the NAHC if the coroner determines that the remains are that of a Native American. PRC § 5097.98 provides the notification process used by the NAHC for the discovery of Native American human remains, descendants, and also provides guidance for the appropriate and dignified disposition of human remains and associated grave goods. If UAIC is identified as the Most Likely Descendent by the NAHC, then the procedures in the Burial Treatment Agreement (Mitigation Measure TCR-2) between the UAIC and SBFCA shall be followed.

**TCR-8: Recovery, Treatment Storage and Reburial of Native American Cultural Items and Soils.** SBFCA shall provide a locking storage cabinet within a work trailer for storage of cultural items. If there is a large volume of cultural items and upon Tribal request, SBFCA shall provide a secure, climate controlled, trailer. The tribe and tribal monitors shall control access to the secure storage area.

SBFCA shall provide on-site locations for the secure storage of cultural or burial soils. These locations shall be subject to Tribal approval. SBFCA shall take action to protect soil piles from erosion, looting, or vehicular traffic, upon Tribal request.

Tribal Monitors shall recover cultural items from the Project Area, record the recovered cultural items, and the recovered cultural items in secure location on-site.

Burial or cultural soils in large quantities shall be stockpiled in a designated area.

Monitors from the UAIC will conduct the burial recovery, repatriation, and reburial of any human remains, burial goods, and soils from the Project Site for which UAIC is the designated MLD. These monitors will be in addition to those observing construction activities.

SBFCA will coordinate with the tribe to designate a repatriation area to accommodate reburial of human remains, burial offerings, cultural items and

cultural or burial soils from the Project Site. Repatriation and reburial shall occur prior to the completion of the Project.

**TCR-9: Documentation of Finds.** All TCRs encountered during construction shall be documented in a report prepared in coordination with the UAIC as well as by completing a Department of Parks Recreation Form 523 and submitting it to the Northeast Information Center (NEIC) of the California Historical Resources Information System (CHRIS) in Chico, California. UAIC shall have the opportunity to review and revise these documents.

UAIC shall be invited to prepare a chapter or confidential appendix for the report and may invoice for the costs of preparing such report under a consulting agreement with SBFCA.

**TCR-10: Mitigation.** Tribes shall recommend for lead agency approval appropriate and commensurate mitigation based on adverse effects or impacts to Tribal Cultural Resources, including cumulative effects. SBFCA shall be responsible for coordinating the funding for recommended mitigation no later than 1 year following the completion of the Project.

Implementation of the Proposed Project would result in a considerable contribution to cumulative impacts to TCRs.

## Findings

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. The effects identified in the EIR have been determined not to be significant.

## Facts in Support of Findings

The potential for the Project to result in a considerable contribution to cumulative impacts to TCRs has been eliminated or substantially lessened to a level of less than significant by virtue of the mitigation measures identified in the EIR.

## Mitigation Measures:

Implementation of mitigation measures TCR-1 through TCR-10 will be required.

## 8.0 ALTERNATIVES TO THE PROPOSED PROJECT

The EIR addresses the environmental effects of alternatives to the Project. A description of these alternatives, a comparison of their environmental impacts to the Project, and the SBFCA's findings are listed below. These alternatives are compared against the Project relative to the identified Project impacts, summarized in the sections above, to the Project objectives, as stated in Section 3.0, Project Description, of the EIR.

In making the following alternatives findings, SBFCA certifies that it has independently reviewed and considered the information on alternatives provided in the EIR, including the information provided in the comments on the EIR and the responses thereto.

## 8.1 Alternative One – Existing Setting (No Project)

Under the No Project Alternative, the levee segment would not be improved, and current seepage under it would continue indefinitely, and possibly lead to levee failure during a flooding event, which could lead to extensive damage and possible loss of life.

### Facts in Support of Findings:

Under the No Project Alternative, none of the Project objectives would be met.

Under the No Project Alternative, no Project-related environmental impacts would occur as no construction would occur. The Project benefits on flood protection would not be realized.

### Findings

The findings of the Project set forth in this document provide support for the Project and the elimination of this alternative from further consideration.

## 8.2 Alternative 2 – Construct New Levee Within Project Area

This Alternative would involve demolition of the entire existing levee and construction of a new levee within the Project Area. All materials from the existing levee would be removed and evaluated for reuse in the new construction, and new materials would be delivered to the Project Area as needed for construction of the new levee.

### Facts in Support of Findings:

All Project objectives would be met under this Alternative. However, because installation of the new cutoff wall into the existing levee would resolve the seepage through the levee, complete demolition of the existing levee and construction of a new levee on or adjacent to the existing levee site would not offer additional benefit compared to the Proposed Project. In addition, this Alternative would significantly expand the area of disturbance created by the Project because of the need to stockpile and ultimately dispose of the spoils created by demolition that could not be reused, and would increase the need for use of heavy equipment to remove, stockpile and dispose of existing levee materials. If not constructed on the exact site of the existing levee, this Alternative would also have potential for creating additional impacts to biological and cultural resources compared to the Proposed Project. Demolishing the existing levee and constructing a new one would also be considerably more expensive than the Proposed Project, which would remove only the top 30 percent of the existing levee and install a new cutoff wall. Therefore, this Alternative is considered economically infeasible, and would increase the potential for impact to the environment.

### Findings

1. The findings of the Project set forth in this document provide support for the Project and the elimination of this alternative from further consideration.

## 9.0 CERTIFICATION OF THE FINAL EIR

The SBFCA Board of Directors declares that no new significant information, as defined by the CEQA Guidelines Section 15088.5, has been received by SBFCA after circulation of the EIR that would require recirculation.

The SBFCA Board of Directors certifies the Final Environmental Impact Report based on the following findings and conclusions.

### Findings

The Project would have the potential for creating significant adverse impacts. These significant adverse environmental impacts have been identified in the EIR and will require mitigation as set forth in the Findings. The Project would not cause adverse impacts that cannot be mitigated to a level of insignificance after mitigation.

## 10.0 CONCLUSIONS

1. All significant environmental impacts from the implementation of the Project have been identified in the EIR and, with implementation of the mitigation measures identified, will be mitigated to less than significant levels.
2. Alternatives to the Project which could potentially achieve the basic objective of the Project have been considered and rejected in favor of the Project. The Construct a New Levee within the Project Area alternative (Alternative 2) would result in greater impacts to the environment due to increased truck trips for material disposal over a longer Project duration. Therefore, the Proposed Project is identified as the Environmentally Superior Alternative.
3. Environmental, economic, social, and other considerations and benefits derived from the development of the Project make infeasible any alternatives to the Project or further mitigation measures beyond those incorporated into the Project.

## 11.0 REFERENCE

Halterman. M., M.J. Johnson, J.A. Holmes, and S.A. Laymon. 2016. A Natural History Summary and Survey Protocol for the Western Distinct Population Segment of the Yellow-billed Cuckoo, Final Draft dated: May 2016. U.S. Fish and Wildlife Techniques and Methods.