

**CALENDAR ITEM
C07**

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02/07/17
W 27040
M.J. Columbus

**AUTHORIZE ACCEPTANCE OF A LEASE QUITCLAIM DEED AND ISSUANCE OF A
GENERAL LEASE – PUBLIC AGENCY USE**

APPLICANT:

West Sacramento Area Flood Control Agency

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to multiple Assessor's Parcel Numbers (APNs) between APNs 046-230-050 and 046-010-044, from River Mile (RM) 57.2 south to RM 51.6, in the City of West Sacramento, Yolo County.

AUTHORIZED USE:

Construction, use and maintenance of flood risk-reduction measures, including bank stabilization, removal of trees and vegetation, removal of all existing encroachment structures, rock slope protection, erosion site repairs, and maintenance and construction areas.

LEASE TERM:

20 years, beginning February 7, 2017.

CONSIDERATION:

Public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

The West Sacramento Area Flood Control Agency (WSAFCA) has applied for a General Lease – Public Agency Use for implementing flood risk-

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reduction measures, including bank stabilization, removal of trees and vegetation, removal of existing encroachment structures, rock slope protection, erosion site repairs, and maintenance and construction areas along the waterside portion of the levee, adjacent to the Sacramento River, near the city of West Sacramento. This is a component of the larger Southport Sacramento River Early Implementation Project (Project) that is improving 5.6 miles of levee along the Sacramento River South Levee from River Mile (RM) 57.2 south to the South Cross Levee at RM 51.6, in the Southport community of the City of West Sacramento. The Project was designed to meet the standards of the Federal Emergency Management Agency and Senate Bill 5, Machado (Stats. 2007, ch. 364). The placement of bank stabilization, removal of trees and vegetation, rock slope protection, erosion site repairs, and maintenance and construction areas are portions of the Project extending onto sovereign land.

Another portion of the Project extending onto sovereign land in the Sacramento River involves the removal of all existing encroachment structures adjacent to APNs 046-230-050, 046-040-006 (formerly 046-040-06), and 046-040-008 (formerly 046-040-05). On March 29, 2012, the Commission authorized a 10-year General Lease – Recreational Use, No. PRC 7497.1, to Gregory Bret Culbreth and Terry Catherine Annesley ([Calendar Item C34, March 29, 2012](#)) for facilities adjacent to APN 046-230-050. That lease will expire on March 28, 2022. On July 7, 2016, ownership of the upland parcel APN 046-230-050 was issued by court order to the WSAFCA for construction of levee improvements. On April 20, 2005, the Commission authorized a 10-year General Lease – Recreational Use, No. PRC 5932.9, to Rick A. Hart and Andrea Hart, as Trustees of the Hart Family Trust, and Betsy M. Perkins ([Calendar Item C11, April 26, 2005](#)) for facilities adjacent to APN 046-040-06. That lease expired on March 31, 2015. On June 3, 2016, a court order for possession and use was granted to the WSAFCA for the upland parcel APN 046-040-006. On May 29, 1980, the Commission authorized a 20-year General Lease – Recreational Use, No. PRC 519, to Lawrence L. and Shirley V. McKinney ([Calendar Item 06, May 29, 1980](#)) for facilities adjacent to APN 046-040-05. That lease expired on December 30, 1999. On July 5, 2016 a court order for possession and use was granted to the WSAFCA for the upland parcel APN 046-040-008 (formerly 046-040-05). WSAFCA owns, or has obtained court orders of possession, or an agreement from the owners of the remaining upland parcels granting the WSAFCA a right to enter, construct, and maintain levee improvements.

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Because Lease No. PRC 7497.1 has not yet expired, Gregory Bret Culbreth and Terry Catherine Annesley executed a quitclaim deed releasing their interest in Lease No. PRC 7497.1. Staff recommends acceptance of the quitclaim deed and issuance of a new lease to WSAFCA.

WSAFCA's project proposes to implement flood risk-reduction measures along the Sacramento River South Levee in order to provide a state-mandated target of 200-year flood event protection. Three areas between RM 57.2 and RM 51.6 have erosion along the waterside of the levee. Two of the eroded areas are remnant levee sites and span an approximate combined length of 750 feet. The third site is an active levee extending approximately 490 linear feet. The new proposed actions would repair the three eroded areas by placing rock slope protection along the waterside of the levee.

The repairs at all three sites are designed to protect against erosion forces that threaten levee stability, such as wind, waves, boat wakes, and fluvial forces. WSAFCA proposes to place rock slope protection along the slope of the levee to control erosion of the riverbed and the levee. Placement of the rock will be accomplished from the waterside with the use of barges; one barge would hold the stockpile of rock to be placed, and a second barge would hold the crane that would place the rock on the channel slopes. A backhoe would be used from the bank to shape the rock. WSAFCA will implement Best Management Practices to control sedimentation and erosion, and all work is required to be conducted during low flow periods. Project construction is estimated to take approximately 3 years, with periodic repairs as needed, to prevent or repair localized scour along the bank and rock toe of the sites. In-water construction activities will be scheduled between July 1 and October 31 when water elevation in the Sacramento River along the Project area is typically at the average annual low-water elevation.

The flood risk-reduction measures are consistent with the common law Public Trust Doctrine. Overall, the measures are intended to provide reinforced structural support to the levee and limit potentially harmful erosion. The rock slope protection also confers a public health and safety benefit to the entire city of West Sacramento by addressing known levee deficiencies along the Sacramento River South Levee in the Project area. In addition, the Project seeks to prevent levee failure and catastrophic flooding of the city. Rock slope protection has existed for many years

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within the vicinity of the Project location and does not significantly alter the land or alienate the State's fee interest. The WSAFCA is providing river access for the public during construction by constructing ramps near two marinas that have been excluded from the Project. Based on the foregoing, Commission staff believes that the proposed Project is consistent with the Public Trust Doctrine and will not substantially interfere with the Public Trust needs at this location, at this time, or for the foreseeable term of the Project.

The lease includes certain provisions protecting the public's use of the proposed lease area by requiring the Applicant to obtain necessary permits. The lease requires the Applicant to conduct all repair and maintenance work safely and indemnify the Commission in the event of any liability resulting from the proposed action. The lease also has a limited term of 20 years, which allows the Commission flexibility to determine if the Public Trust needs of the area have changed over time.

The proposed Project will extend onto the upland parcels and include soil borrow sites. This portion of the Project does not take place on State-owned sovereign land, and therefore, is not required to be part of the Lease Premises.

Climate Change

Climate change impacts, including sea-level rise, are not limited to the open coast and may involve increased wave activity, storm events, and flooding. The Project is located in and along the Sacramento River within a tidally-influenced region.

By 2030, California's coast could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). This effect could increase the Sacramento River's inundation levels within the lease area. In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise).

Climate change could have a number of impacts for the region. The amount and timing of snowmelt runoff will likely change such that runoff pulses are earlier in the season and stronger precipitation events will occur over a shorter period of time. This is because warming temperatures

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will result in more water falling as rain rather than snow, earlier spring snowmelt, and less snowpack overall. In rivers and tidally-influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. In addition, there will be greater amounts of runoff because less water will be trapped at higher altitudes in snowpack. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure.

The Project is intended to achieve the following objectives to enhance flood control at the Project area:

- Strengthen, armor, and elevate the existing levee system to meet federal and State standards;
- Construct three new breached areas within the existing levee system and construct setback levees to expand the floodplain and increase floodplain capacity for high flow events;
- Enhance the existing levee system to meet current Federal Emergency Management Agency standards for 100-year flood protection;
- Enhance the existing levee system to meet current State standards for 200-year flood protection pursuant to the Central Valley Flood Protection Plan; and
- Remove existing encroachments within the levee prism and on State sovereign land to increase floodplain capacity.

The proposed improvements to the levee system have been designed for conformance with U.S. Army Corps of Engineers (USACE) Levee Design Criteria. MBK Engineers applied the USACE sea-level rise guidance (Engineering Technical Letter 1110-2-571, 2009) to the West Sacramento Levee Improvements Program (WSLIP) area, which includes the Project area, in order to determine the effects of potential sea-level rise on the program area (Report on Effects of Projected Sea-Level Change on West Sacramento Levee Improvement Project Design, 2009). The MBK Engineers report used the procedure for calculating sea-level rise, which is identified in the USACE guidance, and applied that procedure to the proposed WSLIP design.

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According to tidal records from Tide Station 9414290 at San Francisco, California, the nearest tide station with a sufficient period of record (since the 1850s), historical mean sea-level for this site has been increasing at a rate of 2.01 millimeters/year (California Climate Change Center 2009 as cited in 2009 MBK Engineers Report). In brief, the design water surface for the WSLIP area is relatively insensitive to the rates of sea-level rise. Of all the scenarios analyzed, only the high sea-level rise rate 100 years after the Project is constructed shows greater than one-tenth of a foot-stage increase in the Sacramento River (WSLIP 408 Permission EIS/EIR, 2010).

In summary, the Final EIR for WSAFCA's Project did not identify any potentially significant impacts related to sea-level rise, and the levee improvements have been designed in consideration of future sea-level rise scenarios.

Conclusion

For all the reasons above, Commission staff believes the proposed lease is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.

2. **Acceptance of a Quitclaim Deed:**

Acceptance of the quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

3. **Issuance of a General Lease – Public Agency Use:**

An Environmental Impact Report, State Clearinghouse No. 2011082069, was prepared for this Project and certified on August 14, 2014, by the WSAFCA. The WSAFCA also prepared a Subsequent EIR for inclusion of an additional borrow area for the Project outside of CSLC's jurisdiction, which did not include any impacts or mitigation measures applicable to

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CSLC's jurisdiction. California State Lands Commission staff has reviewed such documents. A Mitigation Monitoring Program prepared pursuant to the provisions of CEQA (Pub. Resources Code, § 21081.6) and adopted by the lead agency.

Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15096) and a Statement of Overriding Considerations made pursuant to the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15093) are contained in Exhibit D, attached hereto.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the Project, as proposed, is consistent with its use classification.

APPROVALS REQUIRED:

Central Valley Flood Protection Board
Central Valley Regional Water Quality Control Board
California Department of Fish and Wildlife
U.S. Army Corps of Engineers
U.S. Fish and Wildlife Service
National Marine Fisheries Service

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Mitigation Monitoring Program
- D. CEQA Findings and Statement of Overriding Considerations

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an Environmental Impact Report, State Clearinghouse No. 2011082069, and a Mitigation Monitoring Program was prepared for this Project by the WSAFCA and certified on August 14, 2014, and that the Commission reviewed and considered the information contained therein.

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Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto. Adopt the Findings, made in conformance with California Code of Regulations, title 14, sections 15091 and 15096, subdivision (h), as contained in Exhibit D, attached hereto.

Adopt the Statement of Overriding Considerations, made in conformance with California Code of Regulations, title 14, section 15093, as contained in Exhibit D, attached hereto.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location at this time or for the foreseeable term of the lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize acceptance of a quitclaim deed for Lease No. PRC 7497.1, a General Lease – Recreational Use, issued to Gregory Bret Culbreth and Terry Catherine Annesley.
2. Authorize issuance of a General Lease – Public Agency Use to West Sacramento Area Flood Control Agency, beginning February 7, 2017, for a term of 20 years, for construction, use, and maintenance of flood risk-reduction measures, including bank stabilization, removal of trees and vegetation, removal of existing encroachment structures, rock slope protection, erosion site repairs, and maintenance and construction areas as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right, at any time, to set a monetary rent as specified in the lease if the Commission finds such action to be in the State's best interests.

EXHIBIT A

W 27040

LAND DESCRIPTION

Two parcels of tide and submerged land situated in the bed of the Sacramento River, lying adjacent to fractional Sections 10, 15, 16, 20, 21, 22, 29 and 32 Township 8 North, Range 4 East, Mount Diablo Meridian, County of Yolo, State of California, and more particularly described as follows:

PARCEL 1

Bounded on the north by the easterly prolongation of a line parallel with and 200 feet southerly from the northerly line of that certain Parcel Nine described in Grant Deed recorded December 9, 2015 in Document No. 2015-0034218-00 in Official Records of Yolo County;

Bounded on the southwest by a line parallel with and 220 feet southwesterly from the northeasterly line and the southeasterly prolongation thereof, of that PARCEL A shown on that certain map filed November 16, 1978 in Book 11 of Maps & Surveys at Pages 68-69, Yolo County Records;

Bounded on the west by the ordinary high water mark of the right bank of the Sacramento River;

Bounded on the east by a line parallel with and 150 feet easterly from the ordinary high water mark of the right bank of the Sacramento River.

PARCEL 2

Bounded on the northeast by a line parallel with and 100 feet southwesterly from the southwesterly line and the southeasterly prolongation thereof, of that Parcel No. 2 shown on that certain Parcel Map No. 3672 filed September 14, 1992 in Book 10 of Parcel Maps at Pages 75-76, Yolo County Records;

Bounded on the southwest by a line parallel with and 250 feet southwesterly from the southeasterly prolongation of that course "South 75° 25' 55" East 721.30 feet" of that certain parcel described in Grant Deed recorded July 24, 2015 in Document No. 2015-0020795-00 in Official Records of Yolo County;

Bounded on the west by the ordinary high water mark of the right bank of the Sacramento River;

Bounded on the east by a line parallel with and 150 feet easterly from the ordinary high water mark of the right bank of the Sacramento River.

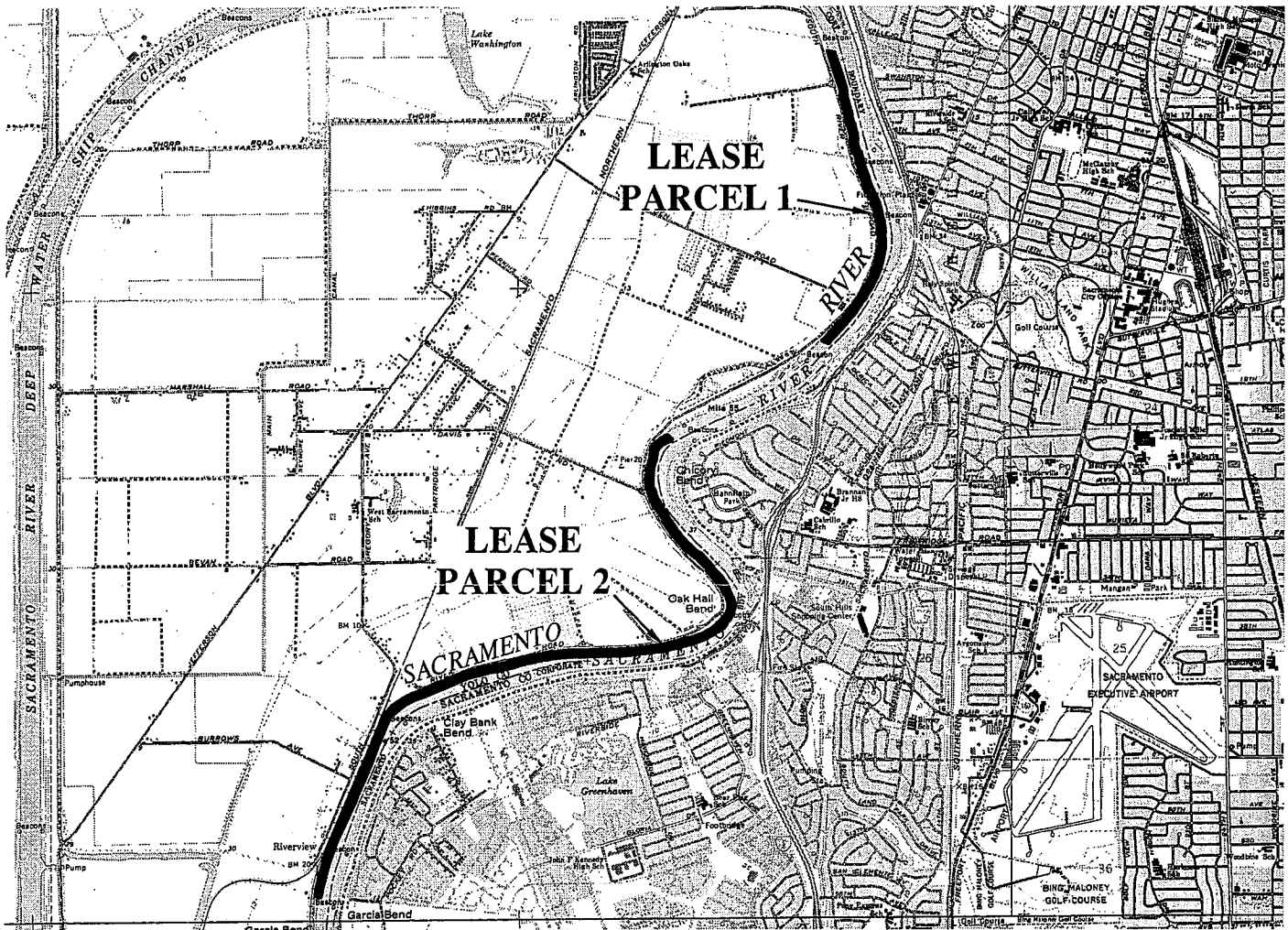
END DESCRIPTION

Prepared 11/14/16 by the California
State Lands Commission Boundary Unit



NO SCALE

SITE



SOUTH RIVER RD. RM 57.2 SOUTH TO RM 51.6, SACRAMENTO RIVER

NO SCALE

LOCATION

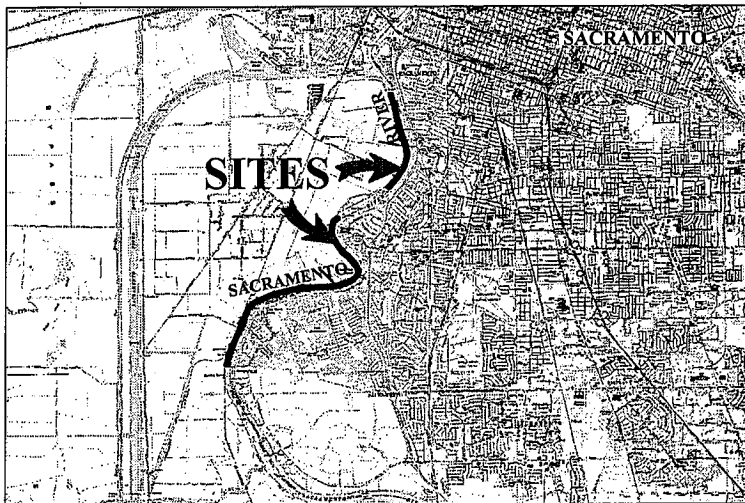


Exhibit B
 W 27040
 WEST SACRAMENTO AREA
 FLOOD CONTROL AGENCY
 APNs: MULTIPLE
 GENERAL LEASE -
 PUBLIC AGENCY USE
 YOLO COUNTY



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
SOUTHPORT SACRAMENTO RIVER EARLY IMPLEMENTATION PROJECT
(W27040, State Clearinghouse No. 2011082069)

The California State Lands Commission (Commission or CSLC) is a responsible agency under the California Environmental Quality Act (CEQA) for the Southport Sacramento River Early Implementation Project (Project). The CEQA lead agency for the Project is West Sacramento Area Flood Control Agency (WSAFCA).

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on Commission lands. The purpose of a MMP is to discuss feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). State CEQA Guidelines section 15097, subdivision (a), states in part:¹

In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The lead agency has certified an EIR; State Clearinghouse No. 2011082069, and adopted a MMP for the whole of the Project (see Exhibit C, Attachment C-1) and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The lead agency approved Alternative 5 of the Final EIR. The lead agency also certified a Subsequent EIR for inclusion of an additional borrow area for the Project outside of the Commission's jurisdiction, which did not include any mitigation measures applicable to the Commission's jurisdiction. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table C-1 below.

The full text of each mitigation measure, as set forth in the MMP prepared by the CEQA lead agency and listed in Table C-1, is incorporated by reference in this Exhibit C. Any mitigation measures adopted by the Commission that differ substantially from those adopted by the lead agency are shown as follows:

¹ The State CEQA Guidelines are found at California Code of Regulations, title 14, section 15000 et seq.

- Additions to the text of the mitigation measure are underlined; and
- Deletions of the text of the mitigation measure are shown as ~~strikeout~~ or as otherwise noted.

Table C-1. Project Impacts and Applicable Mitigation Measures

Potential Impact	Mitigation Measure (MM) ²	Difference Between CSLC MMP and Lead Agency MMP
FR-3: Alteration of Existing Drainage Pattern of Site or Area	FR-MM-1	None
FR-7: Change in Stream Energy and Modification of Floodplain Scour/Deposition	FR-MM-2	None
AIR-2: Violate Any Air Quality Standard or Substantial Contribution to Existing or Projected Air Quality Violation	AIR-MM-1, AIR-MM-2, AIR-MM-4, AIR-MM-5	None
AIR-3: Violate Any Air Quality Standard or Substantial Contribution to Existing or Projected Air Quality Violation	AIR-MM-1, AIR-MM-2, AIR-MM-4	None
AIR-4: Result in a Cumulatively Considerable Net Increase of Any Criteria Pollutant for Which the Project Region is a Non-Attainment Area under National Ambient Air Quality Standards and California Ambient Air Quality Standards	AIR-MM-1, AIR-MM-2, AIR-MM-4, AIR-MM-5	None
AIR-5: Expose Sensitive Receptors to Substantial Fugitive Dust Concentrations	AIR-MM-2	None
NOI-1: Exposure of Sensitive Receptors to Temporary Construction-Related Noise	NOI-MM-1	None
NOI-2: Exposure of Sensitive Receptors to Temporary Construction-Related Vibration	NOI-MM-2	None
VEG-1: Disturbance or Removal of Riparian Habitat as a Result of Project Construction	VEG-MM-1, VEG-MM-2, VEG-MM-3, VEG-MM-4	None
VEG-2: Loss of Waters of the United States as a Result of Project Construction	VEG-MM-2, VEG-MM-3, VEG-MM-4, VEG-MM-5	None
VEG-4: Potential Loss of Special-Status Plant Populations Caused by Habitat Loss Resulting from Project Construction	VEG-MM-2, VEG-MM-3, VEG-MM-4, VEG-MM-7, VEG-MM-8	None

² See Attachment C-1 for the full text of each MM taken from the MMP prepared by the CEQA lead agency.

Table C-1. Project Impacts and Applicable Mitigation Measures

Potential Impact	Mitigation Measure (MM) ²	Difference Between CSLC MMP and Lead Agency MMP
FISH-1: Temporary Disturbance of Fish and Degradation of Habitat during Construction Activities	FISH-MM-1	None
FISH-3: Loss or Degradation of Riparian and SRA Cover Associated with Levee Construction	FISH-MM-2, FISH-MM-3	None
WILD-2: Disturbance or Loss of Western Pond Turtles and Their Habitat	VEG-MM-3, WILD-MM-4	None
WILD-6: Loss or Disturbance of Tree, Shrub, and Ground-Nesting Special-Status and Non-Special-Status Migratory Birds and Raptors	VEG-MM-1, VEG-MM-3, WILD-MM-8	None
WILD-7: Loss or Disturbance of Bats and Bat Roosts	VEG-MM-1, VEG-MM-3, WILD-MM-8, WILD-MM-12	None
VIS-1: Result in Temporary Visual Effects from Construction	VIS-MM-1, VIS-MM-2, VIS-MM-3	None
UTL-3: Damage of Public Utility Infrastructure and Disruption of Service as a Result of Project Construction	UTL-MM-3	None
CUL-1: Effects on Architectural (Built Environment) Resources (the Sacramento River Levee)	CUL-MM-1	None
CUL-2: Change in the Significance of an Archaeological Resource	CUL-MM-2, CUL-MM-3	See Mitigation Measure CUL-MM-3 below
CUL-3: Disturbance of Native American and Historic-Period Human Remains	CUL-MM-4	None

Mitigation Measure CUL-MM-3: Implement Inadvertent Discovery Procedures

If cultural resources are discovered during construction, all construction will immediately stop within 100 feet (30 meters) of the discovery, the location of the discovery will be marked for avoidance, and efforts will be made to prevent inadvertent destruction of the find. The contractor must notify the U.S. Army Corps of Engineers (USACE) and West Sacramento Area Flood Control Agency (WSAFCA) (if not on location). WSAFCA, in consultation with USACE, will determine whether the discovery is a potential National Register of Historic Resources (NRHP)-eligible resource by evaluating the resource per the criteria in 36 CFR Part 60.4. WSAFCA will also evaluate the resource to determine whether it is a historical resource or unique archaeological resource under CEQA. If WSAFCA and USACE determine that the discovery is neither an NRHP-eligible resource nor a historical resource, the discovery will be documented and construction may proceed at the direction of USACE and WSAFCA.

If WSAFCA and USACE determine that human remains are not present, that the discovery is not an isolated find, and that the discovery may be eligible for the NRHP or significant under CEQA, the WSAFCA and USACE will notify the State Historic Preservation Officer (SHPO) and other relevant parties as early as feasible. Notification will include a description of the discovery, the circumstances leading to its identification, and recommendations for further action. Where feasible, the notification will also include a tentative NRHP and California Register of Historic Resources (CRHR) eligibility recommendation and description of probable effects. If the resource cannot be evaluated based on available evidence (for example where test excavation is required), WSAFCA will use testing and evaluation methods provided in the research design and treatment plan appended to the WSAFCA and USACE's Programmatic Agreement for further technical work necessary to determine the eligibility of the resource and to describe effects under CEQA and NHPA. Treatment will be implemented where necessary to resolve adverse or significant effects on inadvertently discovered cultural resources that are CRHR or NRHP eligible. WSAFCA will consider preservation in place as the preferred mitigation, as required under CEQA Guidelines Section 15126.4(b) for all CRHR-eligible resources that are subject to significant effects. WSAFCA will prepare a discussion documenting the basis for the selection of treatment consistent with this section. If human remains are found as part of the find, those remains will be managed as required under Mitigation Measure CUL-MM-4, below

Commission staff shall be notified of any CRHR- or NRHP-eligible resources or paleontological specimens discovered on lands under the jurisdiction of the Commission. The final disposition of any artifacts or specimens including, but not limited to, those of an archaeological, cultural, historical, or paleontological nature from such lands must be approved by the Commission.

ATTACHMENT C-1

**Mitigation Monitoring Program Adopted by the
West Sacramento Area Flood Control Agency**

Southport Sacramento River Early Implementation Project Mitigation Monitoring and Reporting Program

Mitigation Monitoring and Reporting Program for the West Sacramento Levee Improvements Program Southport Sacramento River 408 Permission Environmental Impact Report

Description of Measure	Implementation Schedule	Party Responsible for Implementation/ Verification	Signature	Date
Environmental Commitments				
Nesting or Roosting Raptors Survey	Prior to construction	WSAFCA, in coordination with CDFW		
Protection of Regulated and Riparian Trees	Prior to and during construction	WSAFCA, in coordination with CDFW and the City of West Sacramento		
Invasive Plant Species Prevention	During and following construction	WSAFCA, in coordination with the Yolo County Agricultural Commissioner		
Noise-Reducing Construction Practices	During construction	WSAFCA, in coordination with its contractor		
Property Acquisition Compensation and Temporary Resident Relocation Plan	Prior to and during construction	WSAFCA, in coordination with its contractor		
Traffic Control and Road Maintenance Plan	During construction	WSAFCA, in coordination with City and county public works departments		
Coordination to Ensure Minimal Overlap in Disturbances to Traffic during Construction	Prior to and during construction	WSAFCA, in coordination with the City		
Construction Area Closure Notification	Prior to construction	WSAFCA		
Minimize Construction-Related Effects on Navigation	During construction	WSAFCA		
Preserve Marina Access	During construction	WSAFCA		
Minimize Effects Associated with Recreation Enhancements	During construction	WSAFCA		
Stormwater Pollution Prevention Plan	Prior to construction	WSAFCA, in coordination with its contractor		

Description of Measure	Implementation Schedule	Party Responsible for Implementation/ Verification	Signature	Date
Bentonite Slurry Spill Contingency Plan (Frac-Out Plan)	Prior to construction	WSAFCA, in coordination with its contractor		
Spill Prevention, Control, and Countermeasure Plan	Prior to construction	WSAFCA, in coordination with its contractor		
Turbidity Monitoring in Adjacent Water Bodies	During construction	WSAFCA		
Groundwater Well Protection Measures	During construction	WSAFCA		
Soil Supply Protection Measures	Prior to, during, and following construction	WSAFCA		
Soil Hazards Testing and Soil Disposal Plan	Prior to construction	WSAFCA, in coordination with its contractor		
Giant Garter Snake and Its Habitat Effects Minimization	Prior to and during construction	WSAFCA, in coordination with its contractor and CDFW		
Roadway Noise and Light Reduction	Prior to construction	WSAFCA		
Mosquito and Vector Control Management Plan	During and following construction	WSAFCA, in coordination with its contractor and the Sacramento-Yolo Mosquito and Vector Control District		
Aquatic Invasive Species Prevention	Prior to and during construction	WSAFCA, in coordination with CDFW		
Construction-Related Damage Assessment	Prior to, during, and after construction	WSAFCA, in coordination with its contractor		
Flood Risk Management and Geomorphic Conditions				
FR-MM-1: Coordinate with Owners and Operators, Prepare Drainage Studies as Needed, and Remediate Effects through Project Design	Prior to and during construction	WSAFCA/Contractor		
FR-MM-2: Monitor Depositional Feature Integrity and Stability Postconstruction, and Remediate Effects through Restoration Activities	After construction	WSAFCA		

Description of Measure	Implementation Schedule	Party Responsible for Implementation/ Verification	Signature	Date
Water Quality and Groundwater Resources				
WQ-MM-1: Implement Provisions for Dewatering	Prior to and during construction	WSAFCA/Contractor		
Geology, Seismicity, Soils, and Mineral Resources				
GEO-MM-1: Implement the Reclamation Actions of a Project-Specific Reclamation Plan	Prior to and during construction	WSAFCA		
Transportation and Navigation				
None				
Air Quality				
AIR-MM-1: Implement Measures to Reduce Exhaust Emissions of NO _x and PM ₁₀	Prior to and during construction	Contractor		
AIR-MM-2: Implement Fugitive Dust Control Plan	During construction	Contractor		
AIR-MM-3: Provide Advance Notification of Construction Schedule and 24-Hour Hotline to Residents	Prior to and during construction	WSAFCA/Contractor		
AIR-MM-4: Mitigate and Offset Construction-Generated NO _x Emissions to Net Zero (0) for Emissions in Excess of General Conformity <i>de Minimis</i> Threshold (Where Applicable) and to Quantities below Applicable YSAQMD and SMAQMD CEQA Thresholds	Prior to and during construction	WSAFCA		
AIR-MM-5: Mitigate and Offset Construction-Generated NO _x Emissions to Quantities below Applicable BAAQMD CEQA Thresholds	Prior to and during construction	WSAFCA		
Climate Change				
CC-MM-1: Implement Measures to Minimize GHG Emissions during Construction	During construction	WSAFCA/Contractor		
Noise				
NOI-MM-1: Employ Noise-Reducing Construction Practices	During construction	Contractor		
NOI-MM-2: Employ Vibration-Reducing Construction Practices	During construction	Contractor		

Description of Measure	Implementation Schedule	Party Responsible for Implementation/ Verification	Signature	Date
M.M. 4-8-1 from the Southport Framework Plan draft EIR.	During construction	WSAFCA		
Vegetation and Wetlands				
VEG-MM-1: Compensate for the Loss of Woody Riparian Habitat	Prior to and during construction	WSAFCA		
VEG-MM-2: Install Exclusion Fencing along the Perimeter of the Construction Work Area and Implement General Measures to Avoid Effects on Sensitive Natural Communities and Special-Status Species	Prior to and during construction	WSAFCA/Contractor		
VEG-MM-3: Conduct Mandatory Contractor/Worker Awareness Training for Construction Personnel	Prior to construction	WSAFCA/Contractor		
VEG-MM-4: Retain a Biological Monitor	Prior to and during construction	WSAFCA		
VEG-MM-5: Compensate for the Loss of Waters of the United States	Prior to, during, and after construction	WSAFCA		
VEG-MM-6: Compensate for Loss of Protected Trees	Prior to and during construction	WSAFCA		
VEG-MM-7: Retain Qualified Botanists to Conduct Floristic Surveys for Special-Status Plants during Appropriate Identification Periods	Prior to construction	WSAFCA		
VEG-MM-8: Avoid or Compensate for Substantial Effects on Special-Status Plants	Prior to construction	WSAFCA		
Fish and Aquatic Resources				
FISH-MM-1: Limit In-Water Construction Activities to Periods of the Year that Minimize Effects on Fish	During construction	WSAFCA/Contractor		
FISH-MM-2: Implement Onsite and Offsite Compensation Measures to Replace Riparian and SRA Cover Losses	During construction	WSAFCA		
FISH-MM-3: Incorporate Riparian and Wetland Vegetation in the Design of the Levee Breaches	Prior to and during construction	WSAFCA		

Description of Measure	Implementation Schedule	Party Responsible for Implementation/ Verification	Signature	Date
FISH-MM-4: Develop and Implement a Drainage and Grading Plan that Minimizes Losses of Fish from Stranding	Prior to and during construction	WSAFCA		
Wildlife				
WILD-MM-1: Establish a Minimum 20-Foot-Wide Buffer around the Elderberry Shrub	Prior to and during construction	WSAFCA/Contractor		
WILD-MM-2: Transplant Elderberry Shrubs That Cannot Be Avoided or Implement Dust Control Measures during Construction	Prior to and during construction	WSAFCA/Contractor		
WILD-MM-3: Compensate for Removal and Transplantation of VELB Habitat	Prior to and during construction	WSAFCA		
WILD-MM-4: Conduct a Preconstruction Survey for Western Pond Turtle and Exclude Turtles from Work Area	Prior to construction	WSAFCA		
WILD-MM-5: Install and Maintain Construction Barrier Fencing around Suitable Giant Garter Snake Habitat	Prior to and during construction	WSAFCA/Contractor		
WILD-MM-6: Minimize Potential Effects on Giant Garter Snakes during Construction in Suitable Habitat	During construction	WSAFCA/Contractor		
WILD-MM-7: Compensate for Permanent Loss of Giant Garter Snake Habitat	Prior to construction	WSAFCA		
WILD-MM-8: Avoid Disturbance of Tree-, Shrub-, and Ground-Nesting Special-Status and Non-Special-Status Migratory Birds and Raptors and Conduct Preconstruction Nesting Bird Surveys	Prior to and during construction	WSAFCA		
WILD-MM-9: Compensate for Permanent Removal of Swainson's Hawk Foraging Habitat	After construction	WSAFCA		
WILD-MM-10: Conduct Preconstruction Surveys for Active Burrowing Owl Burrows and Implement the 2012 California Department of Fish and Game Guidelines for Burrowing Owl Mitigation, If Necessary	Prior to and during construction	WSAFCA		

Description of Measure	Implementation Schedule	Party Responsible for Implementation/ Verification	Signature	Date
WILD-MM-11: Coordinate with Resource Agencies and Develop an Appropriate Compensation Plan for Burrowing Owl	Prior to construction	WSAFCA		
WILD-MM-12: Conduct Preconstruction Surveys for Roosting Bats and Implement Protective Measure	Prior to and during construction	WSAFCA/Contractor		
Land Use and Agriculture				
LU-MM-1: Provide Compensatory Agricultural Land Protection	After construction	WSAFCA		
LU-MM-2: Avoid Important Farmland in Borrow Areas	During construction	WSAFCA		
Socioeconomics, Environmental Justice, and Community Effects				
None				
Visual Resources				
VIS-MM-1: Use Native Wildflower Species in Erosion Control Grassland Seed Mix	During construction	WSAFCA		
VIS-MM-2: Develop a Soil Borrow Strategy and Site Reclamation Plan	Prior to construction	WSAFCA		
VIS-MM-3: Limit Construction near Residences to Daylight Hours	During construction	Contractor		
Recreation				
None				
Utilities and Public Services				
UTL-MM-1: Coordinate with Water Supply Users before and during All Water Supply Infrastructure Modifications and Implement Measures to Minimize Interruptions of Supply	Prior to and during construction	WSAFCA		
UTL-MM-2: Restore Affected Domestic and Irrigation Water Service to Pre-project Conditions	During and after construction	WSAFCA		
UTL-MM-3: Verify Utility Locations, Coordinate with Utility Providers, Prepare a Response Plan, and Conduct Worker Training	Prior to and during construction	WSAFCA/Contractor		

Description of Measure	Implementation Schedule	Party Responsible for Implementation/ Verification	Signature	Date
Public Health and Environmental Hazards				
HAZ-MM-1: Coordinate and Implement Pipeline Avoidance and Protection Measures	Prior to and during construction	WSAFCA/Contractor		
Cultural Resources				
CUL-MM-1: Detailed Recordation of the Affected Levee	Prior to construction	WSAFCA		
CUL-MM-2: Complete Archaeological Inventory and Evaluation prior to Construction and Implement Treatment or Preservation for Eligible and Adversely Affected Resources	Prior to and during construction	WSAFCA		
CUL-MM-3: Implement Inadvertent Discovery Procedures	During construction	WSAFCA/Contractor		
CUL-MM-4: Implement Human Remains Discovery Procedures	During construction	WSAFCA/Contractor		
CUL-MM-5: Implement Cultural Resource Management Protocols for Borrow Areas	Prior to and during construction	WSAFCA/Contractor		

EXHIBIT D
SOUTHPORT SACRAMENTO RIVER EARLY IMPLEMENTATION PROJECT

CALIFORNIA STATE LANDS COMMISSION
STATEMENT OF FINDINGS AND
STATEMENT OF OVERRIDING CONSIDERATIONS

1.0 INTRODUCTION

The California State Lands Commission (Commission or CSLC), acting as a responsible agency under the California Environmental Quality Act (CEQA), makes these findings and this Statement of Overriding Considerations to comply with CEQA as part of its discretionary approval to authorize issuance of a new lease, to West Sacramento Area Flood Control Agency (WSAFCA), for use of sovereign lands associated with the proposed Southport Sacramento River Early Implementation Project (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines, § 15381.)¹ The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. (Pub. Resources Code, §§ 6301, 6306, 6009, subd. (c).) All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust.

The CSLC is a responsible agency under CEQA for the Project because the CSLC must approve a lease for the Project to go forward and because the WSAFCA, as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. The WSAFCA analyzed the environmental impact associated with the Project in a Final Environmental Impact Report (EIR) (State Clearinghouse [SCH] No. 2011082069) and, in August of 2014, certified the EIR and adopted a Mitigation Monitoring Program (MMP) and Findings, and a Statement of Overriding Considerations. The WSAFCA approved Alternative 5 of the Final EIR, hereinafter referred to as the Project. The lead agency also certified a Subsequent EIR in June of 2016 for inclusion of an additional borrow area for the Project outside of CSLC's jurisdiction, which did not include any mitigation measures applicable to CSLC's jurisdiction.

The Project involves the following components for enhanced flood protection and floodplain ecosystem restoration:

- Slope flattening of the existing levee;
- Strengthening and raising levee elevation;
- Levee breaching at three locations;

¹ CEQA is codified in Public Resources Code section 21000 et seq. The State CEQA Guidelines are found in California Code of Regulations, title 14, section 15000 et seq.

- Construction of seepage berms located on the land side of the levee,
- Rock slope protection located on the water side of the levee;
- Setback levees located landward of the existing levee;
- Construction of a ring levee around Bees Lake;
- Slurry cut-off walls.

Secondary activities that support these primary Project components could include:

- Use of neighboring roadways for Project ingress and egress;
- Creation of temporary access roads;
- Construction of new roadways, including elevated spans;
- Resurfacing and/or relocation of existing roadways;
- Removal of vegetation adjacent to the riverfront;
- Extraction of soil from identified borrow sites;
- Disposal of excess soil at identified disposal sites;
- Relocation of public utilities.

The WSAFCA determined that the Project could have significant environmental effects on the following environmental resources:

- Flood Risk Management and Geomorphic Conditions;
- Water Quality;
- Geology;
- Air Quality;
- Noise;
- Vegetation;
- Fish and Aquatic Resources;
- Wildlife;
- Land Use;
- Environmental Justice/Social Economic;
- Visual Resources;
- Recreation;
- Utilities and Public Services
- Public Health and Environmental Hazards;
- Cultural Resources.

Of the 15 resource areas noted above, Project components within the CSLC's jurisdiction could have significant environmental effects on nine of the resource areas:

- Flood Risk Management and Geomorphic Conditions;
- Air Quality;
- Noise;
- Vegetation;
- Fisheries;
- Wildlife;
- Visual Resources

- Utilities and Public Services;
- Cultural Resources.

In certifying the Final EIR and approving the Project, the WSAFCA imposed various mitigation measures for Project-related significant effects on the environment as conditions of Project approval and concluded that Project-related impacts would be substantially lessened with implementation of these mitigation measures for most resource areas. However, even with the integration of all feasible mitigation, the WSAFCA concluded in the EIR that some of the identified impacts would remain significant. As a result, the WSAFCA adopted a Statement of Overriding Considerations to support its approval of the Project despite the significant and unavoidable impacts. The WSAFCA determined that, after mitigation, the Project may still have significant impacts on air quality, noise, vegetation, fisheries, land use, environmental justice/social economic resources, visual resources, and cultural resources. Because some of these significant impacts may occur on lands under the jurisdiction of the CSLC, the CSLC adopts the Statement of Overriding Considerations set forth in this exhibit as part of its approval.

As a responsible agency, the CSLC complies with CEQA by considering the EIR and reaching its own conclusions on whether, how, and with what conditions to approve a project. In doing so, the CSLC may require changes in a project to lessen or avoid the effects, either direct or indirect, of that part of the project which the CSLC will be called on to carry out or approve. In order to ensure the identified mitigation measures and/or Project revisions are implemented, the CSLC adopts the Mitigation Monitoring Program (MMP) as set forth in Exhibit C as part of its Project approval.

2.0 FINDINGS

The CSLC's role as a responsible agency affects the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each "public agency" that approves a project for which an EIR has been certified that identifies one or more significant impacts on the environment (Pub. Resources Code, § 21081, subd. (a); State CEQA Guidelines, § 15091, subd. (a).) Because the EIR certified by the WSAFCA for the Project identifies potentially significant impacts that fall within the scope of the CSLC's approval, the CSLC makes the Findings set forth below as a responsible agency under CEQA. (State CEQA Guidelines, § 15096, subd. (h); *Resource Defense Fund v. Local Agency Formation Comm. of Santa Cruz County* (1987) 191 Cal.App.3d 886, 896-898.)

While the CSLC must consider the environmental impacts of the Project as set forth in the EIR, the CSLC's obligation to mitigate or avoid the direct or indirect environmental impacts of the Project is limited to those parts which it decides to carry out, finance, or approve (Pub. Resources Code, § 21002.1, subd. (d); State CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because the CSLC's exercise of discretion involves only issuing a new lease for this Project, the CSLC is responsible for considering only the environmental impacts related to lands or resources subject to the CSLC's jurisdiction. As explained above, the WSAFCA approved Alternative 5 of the

Final EIR; therefore, the following Findings are specific to Alternative 5 as applicable to the CSLC's jurisdiction. With respect to all other impacts associated with implementation of the Project, the CSLC is bound by the legal presumption that the EIR fully complies with CEQA.

The CSLC has reviewed and considered the information contained in the Project EIR. All significant adverse impacts of the Project identified in the EIR relating to the CSLC's approval of a new lease, which would allow improvements to the levee for flood protection, are included herein and organized according to the resource affected.

These Findings, which reflect the independent judgment of the CSLC, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects unless the agency makes written findings for each of those significant effects. Possible findings on each significant effect are:

- (1) Changes or alterations have been required in, or incorporated into, the Project that 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 CSLC. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or Project alternatives identified in the Final EIR.²

A discussion of supporting facts follows each Finding.

- Whenever Finding (1) occurs, the mitigation measures that lessen the significant environmental impact are identified in the facts supporting the Finding.
- Whenever Finding (2) occurs, the agencies with jurisdiction are specified. These agencies, within their respective spheres of influence, have the responsibility to adopt, implement, and enforce the mitigation discussed.
- Wherever Finding (3) is made, the CSLC has determined that, even after implementation of all feasible mitigation measures and consideration of feasible alternatives, the identified impact will exceed the significance criteria set forth in the EIR. Furthermore, to the extent that potentially feasible measures have been alleged or proposed, the Findings explain why certain economic, legal, social, technological or other considerations render such possibilities infeasible. The significant and unavoidable impacts requiring Finding (3) are identified in the Final EIR, discussed in the Responses to Comments, and explained below. Having done everything it can to avoid and substantially lessen these effects consistent with its legal authority and CEQA, the CSLC finds in these instances

² See Public Resources Code section 21081, subdivision (a) and State CEQA Guidelines section 15091, subdivision (a).

that overriding economic, legal, social, and other benefits of the approved Project outweigh the resulting significant and unavoidable impacts. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

These Findings are supported by substantial evidence contained in the EIR and other relevant information provided to the CSLC or existing in its files, all of which is contained in the administrative record. The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in the Final EIR.

The CSLC is the custodian of the record of proceedings upon which its decision is based. The location of the CSLC’s record of proceedings is in the Sacramento office of the CSLC, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825.

A. SUMMARY OF FINDINGS

Based on public scoping conducted by the lead agency, the proposed Project will have No Impact on the following environmental issue areas:

- Transportation and Navigation

The EIR subsequently identified the following impact as Less Than Significant:

- Climate Change

For the remaining potentially significant effects, the Findings are organized by significant impacts within the EIR issue areas as presented below.

B. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION

The impacts identified below were determined in the Final EIR to be potentially significant absent mitigation; after application of mitigation, however, the impacts were determined to be less than significant. For the full text of each mitigation measure (MM), please refer to Exhibit C, Attachment C-1.

1. Flood Risk Management and Geomorphic Conditions	FR-3, FR-7
2. Air Quality	AIR-3, AIR-5
3. Vegetation and Wetlands	VEG-2, VEG-4
4. Fish and Aquatic Resources	FISH-1
5. Wildlife	WILD-2, WILD-6, WILD-7
6. Utilities and Public Services	UTL-3

1. FLOOD RISK MANAGEMENT AND GEOMORPHIC CONDITIONS

CEQA FINDING NO. FR-3

Impact: **Impact FR-3. Alteration of Existing Drainage Pattern of Site or Area.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in alteration of surface runoff patterns due to proposed flood risk-reduction measures involving earthwork on levees.

Implementation of MM FR-MM-1 has been incorporated into the Project to reduce this impact to a less than significant level.

MM FR-MM-1: Coordinate with Owners and Operators, Prepare Drainage Studies as Needed, and Remediate Effects Through Project Design

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. FR-7

Impact: **Impact FR-7. Change in Stream Energy and Modification of Floodplain Scour/Deposition.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to change floodplain topography and geomorphic conditions due to proposed measures involving breaching and construction activities with levees and inundation of adjacent floodplain areas.

Implementation of MM FR-MM-2 has been incorporated into the Project to reduce this impact to a less than significant level.

MM FR-MM-2: Monitor Depositional Feature Integrity and Stability Post-Construction, and Remediate Effects Through Restoration Activities

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

2. Air Quality

CEQA FINDING NO. AIR-3

Impact: **Impact AIR-3. Violate any air quality standard or substantial contribution to existing or projected air quality violation.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The Project's annual construction emissions could cause exceedance of the Federal General Conformity thresholds for nitrous oxide (NO_x) within the Sacramento Valley Air Basin during construction. The effect as a result of construction emissions would be significant because it results in unmitigated emissions that exceed designated thresholds for NO_x.

Implementation of MMs AIR-MM-1, AIR-MM-2, and AIR-MM-4 has been incorporated into the Project to reduce this impact to a less than significant level.

MM AIR-MM-1: Implement Measures to Reduce Exhaust Emissions of NO_x and PM₁₀

MM AIR-MM-2: Implement Fugitive Dust Control Plan

MM AIR-MM-4: Mitigate and Offset Construction-Generated NO_x Emissions to Net Zero (0) for Emissions in Excess of General Conformity De Minimis Threshold (Where Applicable) and to Quantities Below Applicable Yolo Solano Air Quality Management District (YSAQMD) and Sacramento Air Quality Management District (SMAQMD) CEQA Thresholds

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. AIR-5

Impact: **Impact AIR-5. Expose Sensitive Receptors to Substantial Fugitive Dust Concentrations.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Implementation of the Project would result in short-term dust emissions from grading and earth moving activities at the Project construction sites and the soil borrow sites. The effect would be significant because it would expose nearby land uses, especially

residences located downwind of the Project sites, to dust generated during construction activities, resulting in potential adverse health effects.

Implementation of MM AIR-MM-2 has been incorporated into the Project to reduce this impact to a less than significant level.

MM AIR-MM-2: Implement Fugitive Dust Control Plan

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

3. Vegetation and Wetlands

CEQA FINDING NO. VEG-2

Impact: **Impact VEG-2. Loss of Waters of the United States as a Result of Project Construction.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Implementation of the Project would result in permanent fill of waters of the United States, including a perennial drainage and unvegetated agricultural and roadside ditches. The effects of direct removal, filling, and hydrological interruptions of waters of the United States would be significant.

Implementation of MMs VEG-MM-2, VEG-MM-3, VEG-MM-4, and VEG-MM-5 has been incorporated into the Project to reduce this impact to a less than significant level.

MM VEG-MM-2: Install Exclusion Fencing along the Perimeter of the Construction Work Area and Implement General Measures to Avoid Effects on Sensitive Natural Communities and Special-Status Species

MM VEG-MM-3: Conduct Mandatory Contractor/Worker Awareness Training for Construction Personnel

MM VEG-MM-4: Retain a Biological Monitor

MM VEG-MM-5: Compensate for the Loss of Waters of the United States

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. VEG-4

Impact: **Impact VEG-4. Potential Loss of Special-Status Plant Populations Caused by Habitat Loss.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

While there are no known occurrences of special-status plants in the Project area, blooming period surveys of the entire Project area have not yet been conducted for special-status plant species. Because the presence and extent of any special-status plants in the Project construction area are unknown, implementation of the Project could result in their removal during construction. This effect is significant due to the potential loss of special-status plants.

Implementation of MMs VEG-MM-2, VEG-MM-3, VEG-MM-4, VEG-MM-7, and VEG-MM-8 has been incorporated into the Project to reduce this impact to a less than significant level.

MM VEG-MM-2: Install Exclusion Fencing along the Perimeter of the Construction Work Area and Implement General Measures to Avoid Effects on Sensitive Natural Communities and Special-Status Species

MM VEG-MM-3: Conduct Mandatory Contractor/Worker Awareness Training for Construction Personnel

MM VEG-MM-4: Retain a Biological Monitor

MM VEG-MM-7: Retain Qualified Botanists to Conduct Floristic Surveys for Special-Status Plants during Appropriate Identification Periods

MM-VEG-MM-8: Avoid or Compensate for Substantial Effects on Special-Status Plants

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

4. Fish and Aquatic Resources

CEQA FINDING NO. FISH-1

Impact: **Impact FISH-1. Temporary Disturbance of Fish and Degradation of Habitat During Construction Activities.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Ground-disturbing activities during construction of the levee setback would increase the potential for erosion and discharge of fine sediment into the Sacramento River. Erosion and discharge of fine sediment may cause injury or death of fish by disrupting normal behaviors and potentially increasing the susceptibility of some individuals to predation, which would be a significant effect. The Project would adhere to environmental commitments of a Storm Water Pollution Prevention Plan and turbidity monitoring in adjacent water bodies.

Implementation of MM FISH-MM-1 has been incorporated into the Project to reduce this impact to a less than significant level.

MM FISH-MM-1: Limit In-Water Construction Activity to Periods of the Year That Minimize Effects on Fish

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

5. Wildlife

CEQA FINDING NO. WILD-2

Impact: **Impact WILD-2. Disturbance or Loss of Western Pond Turtle and Their Habitat.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Implementation of the Project would include temporary disturbance to upland nesting or cover habitat and the potential for loss of individual pond turtles. Potential effects on Western pond turtle are significant because it is a species of special concern in California.

Implementation of MMs VEG-MM-3 and WILD-MM-4 has been incorporated into the Project to reduce this impact to a less than significant level.

MM VEG-MM-3: Conduct Mandatory Contractor/Worker Awareness Training for Construction Personnel

MM WILD-MM-4: Conduct a Preconstruction Survey for Western Pond Turtle and Exclude Turtles from Work Area

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. WILD-6

Impact: **Impact WILD-6. Loss or Disturbance of Tree, Shrub, and Ground Nesting Special-Status and Non-Special-Status Migratory Birds and Raptors.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Implementation of the Project could result in the removal or disturbance (e.g., trimming) of trees and shrubs that provide potential nesting habitat for special-status birds and raptors during the nesting season (generally February 1 through August 31) and could remove or cause abandonment of active nests of special-status birds. The Project would result in the conversion of grasslands that provide suitable nesting and foraging habitat for special-status birds. Effects on nesting special-status birds are significant, because these birds have special status under State and/or Federal laws.

Implementation of MMs VEG-MM-1, VEG-MM-3, and WILD-MM-8 has been incorporated into the Project to reduce this impact to a less than significant level.

MM VEG-MM-1: Compensate for the Loss of Woody Riparian Habitat

MM VEG-MM-3: Conduct Mandatory Contractor/Worker Awareness Training for Construction Personnel

MM WILD-MM-8: Avoid Disturbance of Tree, Shrub, and Ground-Nesting Special-Status and Non-Special-Status Migratory Birds and Raptors and Conduct Preconstruction Nesting Bird Surveys

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. WILD-7

Impact: **Impact WILD-7. Loss or Disturbance of Bats and Bat Roosts.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Construction activities, such as tree removal and trimming or construction noise, could result in destruction of active bat roosts, the loss of individuals, or roost failure.

Nighttime construction activities could also disturb bats emerging from nearby roosts resulting in the disruption of foraging activities. If bat species are present, these effects

could be significant if the subsequent population decline was large and affected the viability of the local populations of bats. The California Department of Fish and Wildlife (DFW) considers bat roosts of special-status species and non-special-status species a sensitive resource.

Implementation of MMs VEG-MM-1, VEG-MM-3, WILD-MM-8, and WILD-MM-12 has been incorporated into the Project to reduce this impact to a less than significant level.

MM VEG-MM-1: Compensate for the Loss of Woody Riparian Habitat

MM VEG-MM-3: Conduct Mandatory Contractor/Worker Awareness Training for Construction Personnel

MM WILD-MM-8: Avoid Disturbance of Tree, Shrub, and Ground-Nesting Special-Status and Non-Special-Status Migratory Birds and Raptors and Conduct Preconstruction Nesting Bird Surveys

MM WILD-MM-12: Conduct Preconstruction Surveys for Roosting Bats and Implement Protective Measure

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

6. Utilities and Public Services

CEQA FINDING NO. UTL-3

Impact: **Impact UTL-3. Damage of Public Utility Infrastructure and Disruption of Service as a Result of Project Construction.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Implementation of the Project could necessitate the relocation of utility infrastructure, which could result in temporary loss of service. This effect is significant because the potential exists for damage and service interruptions to existing utilities.

Implementation of MM UTL-MM-3 has been incorporated into the Project to reduce this impact to a less than significant level.

MM UTL-MM-3: Verify Utility Locations, Coordinate with Utility Providers, Prepare a Response Plan, and Conduct Worker Training

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

C. SIGNIFICANT AND UNAVOIDABLE IMPACTS

The following impacts were determined in the Final EIR to be significant and unavoidable. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

1. Air Quality	AIR-2, AIR-4
2. Noise	NOI-1, NOI-2
3. Vegetation and Wetlands	VEG-1
4. Fish and Aquatic Resources	FISH-3
5. Visual Resources	VIS-1, VIS-2, VIS-3, VIS-4
6. Cultural Resources	CUL-1, CUL-2, CUL-3

1. AIR QUALITY

CEQA FINDING NO. AIR-2	
Impact:	Impact AIR-2. Violate Any Air Quality Standard or Substantial Contribution to Existing or Projected Air Quality Violation.
Finding(s):	(1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR. (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 EIR.

FACTS SUPPORTING THE FINDING(S)

The Project’s estimated construction-related emissions would exceed the SMAQMD’s and Bay Area Air Quality Management District’s (BAAQMD’s) NOx thresholds, as well as YSAQMD’s NOx and particulate matter 10 microns in diameter or less (PM10) thresholds. The effect as a result of construction emissions would be significant, because it results in unmitigated emissions that exceed designated thresholds for NOx and PM10.

Implementation of MM(s) AIR-MM-1, AIR-MM-2, AIR-MM-3, AIR-MM-4, and AIR-MM-5 has been incorporated into the Project and would reduce the severity of Impact AIR-2, although not necessarily to a less than significant level.

MM AIR-MM-1: Implement Measures to Reduce Exhaust Emissions of NOx and PM10.

MM AIR-MM-2: Implement Fugitive Dust Control Plan

MM AIR-MM-3: Provide Advance Notification of Construction Schedule and 24-Hour Hotline to Residents

MM AIR-MM-4: Mitigate and Offset Construction-Generated NO_x Emissions to Net Zero (0) for Emissions in Excess of General Conformity de Minimis Threshold (Where Applicable) and to Quantities below Applicable YSAQMD and SMAQMD CEQA Thresholds

MM AIR-MM-5: Mitigate and Offset Construction-Generated NO_x Emissions to Quantities below Applicable BAAQMD CEQA Thresholds

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. AIR-4

Impact: **Impact AIR-4. Result in a Cumulatively Considerable Net Increase of Any Criteria Pollutant for Which the Project Region is a Non-Attainment Area Under National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS).**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

(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 EIR.

FACTS SUPPORTING THE FINDING(S)

Construction activities associated with the Project would result in temporary construction related emissions, particularly related to NO_x, PM₁₀, and greenhouse gas (GHG) emissions. The Project's construction-related emissions would result in a significant cumulative impact for NO_x in the SMAQMD and BAAQMD, and NO_x and PM₁₀ in the YSAQMD. Although it is difficult to determine when major infrastructure projects would be constructed, combined with other projects occurring in the YSAQMD, SMAQMD, and BAAQMD, there could be significant cumulative effects on air quality if the Southport project and other projects are implemented concurrently or sequentially.

Implementation of MM(s) AIR-MM-1, AIR-MM-2, AIR-MM-3, AIR-MM-4, and AIR-MM-5 has been incorporated into the Project and would reduce the severity of Impact AIR-4, although not necessarily to a less than significant level.

MM AIR-MM-1: Implement Measures to Reduce Exhaust Emissions of NO_x and PM₁₀.

MM AIR-MM-2: Implement Fugitive Dust Control Plan

MM AIR-MM-3: Provide Advance Notification of Construction Schedule and 24-Hour Hotline to Residents

MM AIR-MM-4: Mitigate and Offset Construction-Generated NOx Emissions to Net Zero (0) for Emissions in Excess of General Conformity de Minimis Threshold (Where Applicable) and to Quantities below Applicable YSAQMD and SMAQMD CEQA Thresholds

MM AIR-MM-5: Mitigate and Offset Construction-Generated NOx Emissions to Quantities below Applicable BAAQMD CEQA Thresholds

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

2. NOISE

CEQA FINDING NO. NOI-1

Impact: **Impact NOI-1. Exposure of Sensitive Receptors to Temporary Construction-Related Noise.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

(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 EIR.

FACTS SUPPORTING THE FINDING(S)

Implementation of the Project would include construction-related activities that could exceed both West Sacramento and Sacramento daytime and nighttime noise ordinance standards, which is considered a significant effect.

Implementation of MM NOI-MM-1 has been incorporated into the Project and would reduce the severity of Impact NOI-1, although not necessarily to a less than significant level.

MM NOI-MM-1: Employ Noise-Reducing Construction Practices

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. NOI-2

Impact: **Impact NOI-2. Exposure of Sensitive Receptors to Temporary Construction-Related Vibration.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

(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 EIR.

FACTS SUPPORTING THE FINDING(S)

Implementation of the Project would include construction-related vibration from highly dynamic equipment. It is anticipated that construction equipment would not typically operate within approximately 30 feet of residences and structures. However, there may be situations in which this would be required, directly exposing residences and other structures to ground vibration in excess of 0.2 inch/second. This effect would be significant.

Implementation of MM NOI-MM-2 has been incorporated into the Project and would reduce the severity of Impact NOI-2, although not necessarily to a less than significant level.

MM NOI-MM-2: Employ Vibration-Reducing Construction Practices

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

3. VEGETATION AND WETLANDS

CEQA FINDING NO. VEG-1

Impact: **Impact VEG-1. Disturbance or Removal of Riparian Trees in Compliance with the USACE Levee Vegetation Policy.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

(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 EIR.

FACTS SUPPORTING THE FINDING(S)

Implementation of the Project would require substantial disturbance and removal of riparian habitat in order to construct flood risk–reduction measures, which would be a significant effect.

Implementation of MMs VEG-MM-1, VEG-MM-2, VEG-MM-3, and VEG-MM-4 has been incorporated into the Project and would reduce the severity of Impact VEG-1, although not necessarily to a less than significant level.

MM VEG-MM-1: Compensate for the Loss of Woody Riparian Habitat

MM VEG-MM-2: Install Exclusion Fencing along the Perimeter of the Construction Work Area and Implement General Measures to Avoid Effects on Sensitive Natural Communities and Special-Status Species

MM VEG-MM-3: Conduct Mandatory Contractor/Worker Awareness Training for Construction Personnel

MM VEG-MM-4: Retain a Biological Monitor

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

4. FISH AND AQUATIC RESOURCES

CEQA FINDING NO. FISH-3

Impact: **Impact FISH-3. Loss or Degradation of Riparian and Shaded Riverine Aquatic (SRA) Cover Associated with Levee Construction.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

(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 EIR.

FACTS SUPPORTING THE FINDING(S)

Implementation of the Project would require the substantial removal of existing riparian vegetation and SRA cover, which could indirectly affect the health and survival of juvenile fish and aquatic species, which would be a significant effect on fish and aquatic species.

Implementation of MMs FISH-MM-2 and FISH-MM-3 has been incorporated into the Project and would reduce the severity of Impact FISH-3, although not necessarily to a less than significant level.

MM FISH-MM-2: Implement Onsite and Offsite Compensation Measures to Replace Riparian and SRA Cover Losses

MM FISH-MM-3: Incorporate Riparian and Wetland Vegetation in the Design of the Levee Breaches

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

5. VISUAL RESOURCES

CEQA FINDING NO. VIS-1

Impact: **Impact VIS-1. Result in Temporary Visual Effects from Construction.**

- Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.
- (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 EIR.

FACTS SUPPORTING THE FINDING(S)

Construction of the Project would likely occur over multiple years and would involve both daytime and nighttime construction activities and result in displacement of agricultural and urban land uses. The construction's proximity to residential viewers who are highly sensitive, and the displacement of residents would result in significant effects on visual resources.

Implementation of MMs VIS-MM-1, VIS-MM-2, and VIS-MM-3 has been incorporated into the Project and would reduce the severity of Impact VIS-1, although not necessarily to a less than significant level.

MM VIS-MM-1: Use Native Wildflower Species in Erosion Control Grassland Seed Mix

MM VIS-MM-2: Develop a Soil Borrow Strategy and Site Reclamation Plan

MM VIS-MM-3: Limit Construction near Residences to Daylight Hours

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. VIS-2

Impact: **Impact VIS-2. Adversely Affect a Scenic Vista.**

- Finding(s): (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 EIR.

FACTS SUPPORTING THE FINDING(S)

Levee construction, alteration of floodplain landscapes, vegetation removal, and other landscape alterations would significantly affect unique scenic vistas with the Sacramento River.

No feasible mitigation measures were identified for this impact.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

6. CULTURAL RESOURCES

CEQA FINDING NO. CUL-1

Impact: **Impact CUL-1. Effects on Architectural (Built Environment) Resources (the Sacramento River Levee).**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

(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 EIR.

FACTS SUPPORTING THE FINDING(S)

Implementation of the Project would involve demolishing or substantially altering the physical characteristics of the levee or cause a major change to its engineering design or overall setting, which would be a significant effect.

Implementation of MM CUL-MM-1 has been incorporated into the Project and would reduce the severity of Impact CUL-1, although not necessarily to a less than significant level.

MM CUL-MM-1: Detailed Recordation of the Affected Levee

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. CUL-2

Impact: **Impact CUL-2. Change in the Significance of an Archaeological Resource.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

(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 EIR.

FACTS SUPPORTING THE FINDING(S)

Implementation of the Project includes the possibility that construction would unearth archaeological materials from beneath the ground surface that cannot currently be identified because of limited access and because of the infeasibility of identifying all buried resources prior to construction. Damage to archaeological resources, if they meet the significance criteria of the National Register of Historic Places and/or the California Register of Historic Resources, would be a significant effect.

Implementation of MMs CUL-MM-2 and CUL-MM-3 has been incorporated into the Project and would reduce the severity of Impact CUL-2, although not necessarily to a less than significant level.

MM CUL-MM-2: Complete Archaeological Inventory and Evaluation prior to Construction and Implement Treatment or Preservation for Eligible and Adversely Affected Resources

MM CUL-MM-3: Implement Inadvertent Discovery Procedures

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. CUL-3

Impact: **Impact CUL-3. Disturbance of Native American and Historic-Period Human Remains.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

(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 EIR.

FACTS SUPPORTING THE FINDING(S)

The Project has the potential for buried human remains to be unearthed and disturbed during ground-disturbing activities that would be associated with construction in the study area is considered high, and the disturbance of any human remains is considered a significant effect.

Implementation of MM CUL-MM-4 has been incorporated into the Project and would reduce the severity of Impact CUL-3, although not necessarily to a less than significant level.

MM CUL-MM-4: Implement Human Remains Discovery Procedures

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

3.0 STATEMENT OF OVERRIDING CONSIDERATIONS

A. INTRODUCTION

This section addresses the CSLC’s obligations under Public Resources Code section 21081, subdivisions (a)(3) and (b). (See also State CEQA Guidelines, §§ 15091, subd. (a)(3), 15093.) Under these provisions, CEQA requires the CSLC to balance, as applicable, the economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the Lease approval related to the Project against the backdrop of the Project’s unavoidable significant environmental impacts. For purposes of CEQA, if the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable significant environmental effects, those effects may be considered acceptable and the decision-making agency may approve the underlying project. (State CEQA Guidelines § 15092, subd. (b)(2)(B).) CEQA, in this respect, does not prohibit the CSLC from approving the Lease even if the Project activities as authorized under the Lease may cause significant and unavoidable environmental effects.

This Statement of Overriding Considerations presents a list of (1) the specific significant effects on the environment attributable to the approved Project that cannot feasibly be mitigated to below a level of significance, (2) benefits derived from the approved Project, and (3) specific reasons for approving the Project.

Although the WSAFCA and CSLC have imposed mitigation measures to reduce impacts, impacts remain that are considered significant after application of all feasible mitigation. Significant impacts of the approved Project (Alternative 5 explained in Alternatives Section) fall under seven resource areas: air quality and greenhouse gas, noise, vegetation and wetlands, fish and aquatic resources, visual resources, and cultural resources (see Table 1). These impacts are specifically identified and discussed in more detail in the CSLC’s CEQA Findings and in WSAFCA’s Final EIR. While the CSLC has required all feasible mitigation measures, these impacts remain significant for purposes of adopting this Statement of Overriding Considerations.

Table 1 – Significant and Unavoidable Impacts Identified for Approved Project

Impact	Impact Description
Air Quality	
AIR-2: Violate Any Air Quality Standard or Substantial Contribution to Existing or Projected Air Quality Violation	The Project’s estimated construction-related emissions would exceed the SMAQMD’s and BAAQMD’s NOx thresholds, as well as YSAQMD’s NOx and particulate matter 10 microns in diameter or less (PM10) thresholds.
AIR-4: Result in a Cumulatively Considerable Net Increase of Any	Construction activities associated with the Project would result in temporary construction related emissions,

Table 1 – Significant and Unavoidable Impacts Identified for Approved Project

Impact	Impact Description
Criteria Pollutant for Which the Project Region is a Non-Attainment Area Under National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS).	particularly related to NOx, PM10, and GHG emissions. The Project’s construction-related emissions would result in a significant cumulative impact for NOx in the SMAQMD and BAAQMD, and NOx and PM10 in the YSAQMD.
Noise	
NOI-1: Exposure of Sensitive Receptors to Temporary Construction-Related Noise	Implementation of the Project would include construction-related activities that could exceed both West Sacramento and Sacramento daytime and nighttime noise ordinance standards, which is considered a significant effect.
NOI-2: Exposure of Sensitive Receptors to Temporary Construction-Related Vibration	Implementation of the Project could directly expose residences and other structures to ground vibration in excess of 0.2 inch/second. This effect would be significant.
Vegetation and Wetlands	
VEG-1: Disturbance or Removal of Riparian Trees in Compliance with the USACE Levee Vegetation Policy	Implementation of the Project would require substantial disturbance and removal of riparian habitat in order to construct flood risk–reduction measures, which would be a significant effect.
Fish and Aquatic Resources	
FISH-3: Loss or Degradation of Riparian and Shaded Riverine Aquatic (SRA) Cover Associated with Levee Construction	Implementation of the Project would require the substantial removal of existing riparian vegetation and SRA cover, which could indirectly affect the health and survival of juvenile fish and aquatic species.
Visual Resources	
VIS-1: Result in Temporary Visual Effects from Construction	Construction of the Project would involve both daytime and nighttime construction activities and result in displacement of agricultural and urban land uses. The construction’s proximity to residential viewers who are highly sensitive and the displacement of residents would result in significant effects on visual resources.
VIS-2: Adversely Affect a Scenic Vista	Levee construction, alteration of floodplain landscapes, vegetation removal, and other landscape alterations would significantly affect unique scenic vistas with the Sacramento River.
Cultural Resources	
CUL-1: Effects on Architectural (Built Environment) Resources (the Sacramento River Levee)	Implementation of the Project would involve demolishing or substantially altering the physical characteristics of the levee or cause a major change to its engineering design or overall setting, which would be a significant effect.
CUL-2: Change in the Significance of an Archaeological Resource	Implementation of the Project includes the possibility that construction would unearth archaeological materials from beneath the ground surface that cannot currently be identified because of limited access and because of the infeasibility of identifying all buried resources prior to construction. Damage to archaeological resources, if they meet the significance criteria of the National Register of

Table 1 – Significant and Unavoidable Impacts Identified for Approved Project

Impact	Impact Description
	Historic Places (NRHP) and/or the California Register of Historic Resources (CRHR), would be a significant effect.
CUL-3. Disturbance of Native American and Historic-Period Human Remains	The Project has the potential for buried human remains to be unearthed and disturbed during ground-disturbing activities that would be associated with construction in the study area is considered high, and the disturbance of any human remains is considered a significant effect.

B. ALTERNATIVES

As explained in *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1000:

When it comes time to decide on project approval, the public agency’s decisionmaking body evaluates whether the alternatives [analyzed in the EIR] are actually feasible.... At this final stage of project approval, the agency considers whether ‘[s]pecific economic, legal, social, technological, or other considerations...make infeasible the mitigation measures or alternatives identified in the environmental impact report.’ Broader considerations of policy thus come into play when the decisionmaking body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives [citations omitted].

The alternatives analyzed in the EIR represent a reasonable range of potentially feasible alternatives that could reduce one or more significant impacts of the Project. These alternatives include a No Action Alternative and five action alternatives:

- 1) No Action Alternative;
- 2) Alternative 1: Adjacent Levee;
- 3) Alternative 2: Setback Levee;
- 4) Alternative 3: Slope Flattening;
- 5) Alternative 4: Reduced Length Setback Levee; and
- 6) Alternative 5: Setback Levee with Slope Flattening.

As presented in the EIR, the alternatives were described and compared with each other.

The WSAFCA independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the WSAFCA’s independent judgment as to alternatives. The WSAFCA found that Alternative 5 provides the best balance between the Project goals and objectives and the Project’s benefits, and represents the approved project. Alternative 5 is the applicant’s preferred alternative because it represents the WSAFCA’s preferred combination and configuration of measures that meet the Project objectives. Alternative 5 is also the Environmentally Superior Alternative because it minimizes effects on potentially jurisdictional waters and balances emissions, real estate acquisition and land use change, environmental benefits, habitat effects, and construction-related disturbances. While it may not have

the fewest environmental effects across every resource category, it is the least impactful as a composite across all resource categories. The other CEQA alternatives proposed and evaluated in the EIR were not selected for the following reasons:

- 1) **No Action Alternative.** Would not resolve needed repairs and deficiencies with existing levee system and other goals and objectives; and
- 2) **Action Alternatives 1 through 4.** Do not meet the applicant's preferred combination and configuration of measures addressing the documented levee deficiencies, minimizing environmental effects, optimizing restoration opportunities, and providing cost-effective value. Another factor is that Bees Lakes would remain hydraulically isolated from the river channel to avoid additional environmental impacts.

Based upon the objectives identified in the Final EIR and the detailed mitigation measures imposed upon the Project, the CSLC has determined that the Project should be approved, subject to such mitigation measures (Exhibit C, Mitigation Monitoring Program), and that any remaining unmitigated environmental impacts attributable to the Project are outweighed by the following specific economic, fiscal, social, environmental, land use, and other overriding considerations.

C. BENEFICIAL IMPACTS OF THE PROJECT

State CEQA Guidelines section 15093, subdivision (a) requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project.

The CSLC finds that the unavoidable significant effects listed above are outweighed by the public safety improvements and environmental benefits offered by the Project. As described in detail in Section 1.3, Project Purpose, Objectives, and Need (Volume I) of the FEIR and summarized below, the CSLC finds the Project would safeguard public health and safety by providing significant, urgently needed flood risk reduction benefits. The Project would also significantly improve the local ecosystem, providing long-term benefits to special-status species and other vegetation and wildlife. Some of the key benefits and objectives include:

- Reduce risk of harm to life and property in West Sacramento;
- Contribute to achievement of the State-mandated minimum 200-year level of flood protection;
- Contribute to achievement of FEMA's minimum 100-year level of levee performance; and
- Preserve, restore, and enhance wildlife habitat within the Project area.

The CSLC finds that the above-referenced benefits outweigh the Project's significant and unavoidable environmental effects.

D. CONCLUSION

The CSLC has considered the Final EIR and all of the environmental impacts described therein including those that cannot be mitigated to a less than significant level and those that may affect Public Trust uses of State sovereign lands. The CSLC has considered the fiscal, economic, legal, social, environmental, and public health and safety benefits of the Project and has balanced them against the Project's unavoidable and unmitigated adverse environmental impacts and, based upon substantial evidence in the record, has determined that the benefits of the Project outweigh the adverse environmental effects. Based on the foregoing and pursuant to Public Resources Code section 21081 and State CEQA Guidelines sections 15096 subdivision (h) and 15093, the CSLC finds that the remaining significant unavoidable impacts of the Project are acceptable in light of the economic, fiscal, social, environmental, and public health and safety benefits of the Project. Such benefits outweigh such significant and unavoidable impacts of the Project and provide the substantive and legal basis for this Statement of Overriding Considerations.

The CSLC finds that to the extent that any impacts identified in the Final EIR remain unmitigated, mitigation measures have been required to the extent feasible, although the impacts could not be reduced to a less than significant level.

Based on the above discussion, the CSLC finds that the benefits of the Project outweigh the significant unavoidable impacts that could remain after mitigation is applied and considers such impacts acceptable.