COMMENTS AND RESPONSE TO COMMENTS ON THE DRAFT INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION PREPARED FOR THE CACHE SLOUGH MITIGATION BANK PROJECT

USE PERMIT APPLICATION 23-03

MAY 2025

PREPARED BY
DEPARTMENT OF RESOURCE MANAGEMENT
COUNTY OF SOLANO

Contents

Chapter 1
Introduction

Pursuant to the California Environmental Quality Act (CEQA)(California Public Resources Code Section 21000 et. seq.) and the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et. seq.), the potential environmental effects of the proposed Cache Slough Mitigation Bank Project (Project) have been analyzed in an Initial Study/Mitigated Negative Declaration (IS/MND) (SCH No. 2025010929) dated January 2025.

Section 15074(b) of the State CEQA Guidelines states that, prior to approving a project, the Lead Agency must consider the proposed MND together with any comments received during the public review process. The Lead Agency must adopt the proposed MND only if it finds, on the basis of the whole record before it, that there is no substantial evidence that the project would have a significant effect on the environment and that the MND reflects the Lead Agency's independent judgment and analysis. Section 2.0, Response to Comments, of this document provides all letters received during the MND public review period and written Response to all comments received.

1.1 Public Review of the IS/MND

Upon completion of the MND, the public review was executed in accordance with Sections 15072 and 15073 of the State CEQA Guidelines. On January 29, 2025, a Notice of Intent (NOI) to Adopt a Mitigated Negative Declaration was prepared and distributed to the State Office of Planning and Research, State Clearinghouse and Planning Unit (State Clearinghouse); responsible and trustee agencies; organizations and interested parties, including the owners/occupants of all properties within an approximate 300-foot radius of the Project site, and all parties who requested notice in accordance with CEQA. The NOI was filed with the Solano County Clerk and a summary was published in the Dailey Republic February 2, 2025 and Rio Vista Beacon February 5, 2025. The NOI was distributed for a 30-day public review period from Wednesday January 29 through Thursday February 27, 2025.

The IS/MND was made available for review at the Solano County Planning Services Division, Resource Management Department at 675 Texas Street Suite 5500, Fairfield, CA, 94533, as well as online at https://www.solanocounty.com/depts/rm/documents/eir/default.asp.

Chapter 2
Comment Letters

This chapter contains the comment letter received on the Cache Slough Mitigation Bank Project Draft IS/MND. These letters, as well as individual comments within the letter, have been given an assigned letter and number for cross referencing. Table 2-1 lists the comment letter received on the Draft IS/MND.

The County of Solano received seven comment letters on the Draft IS/MND. The commenters and the page number on which each commenter's letter appears are listed in Table 2-1.

Table 2-1 List of Comment Letters Received

Letter #	Commenter	Affiliation	Date of Comment
1	Jeff Henderson	Delta Stewardship Council	February 27, 2025
2	Peter Minkel	Central Valley Regional Water Quality Control Board	February 27, 2025
3	Nedzlene Ferrario	Solano County Airport Land Use Commission's Wildlife Hazards Subcommittee	February 27, 2025
4	Yunsheng Luo	California Department of Transportation	February 27, 2025
5	Alexander Rabidoux	Solano County Water Agency	February 27, 2025
6	Dan Ray	Delta Protection Commission	February 27, 2025
7	Erin Chappell	California Department of Fish and Wildlife	March 6, 2025

Chapter 3
Response to Comments

This chapter contains the County's response to comments received on the Cache Slough Mitigation Bank Project Draft IS/MND. Each individual comment has been given an assigned number which can be cross-referenced to each comment letter included in Chapter 2.

3.1 Letter 1

Jeff Henderson, Deputy Executive Director
Delta Stewardship Council
715 P Street, 15-300, Sacramento, CA 95814
Letter dated February 27, 2025

Comment 1-1

Based on the location and scope, as provided in the Draft IS/MND, the mitigation bank project appears to meet the definition of a covered action. Water Code section 85057.5, subdivision (a), states that a covered action is a plan, program, or project, as defined pursuant to the California Environmental Quality Act (CEQA) in Public Resources Code section 21065, that meets all of the following conditions:

> (1) Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh. This mitigation bank project would occur in the southern part of the Yolo Bypass within the Legal Delta.
> (2) Will be carried out, approved, or funded by a state or a local public agency. This mitigation bank project will be approved by Solano County, a local public agency.
> (3) Is covered by one of the provisions of the Delta Plan. Potentially applicable Delta Plan regulatory policies are described below.
> (4) Will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state. interests in the Delta. This mitigation bank project would have a significant impact on the achievement of the coequal goal to protect, restore, and enhance the Delta Ecosystem.
>
> The state or local agency approving, funding, or carrying out a covered action is required to file a Certification of Consistency with the Council prior to project implementation. (Wat. Code, § 85225; Cal. Code Regs., tit. 23, § 5001, subd. (k)(3).)

Response 1-1

It is acknowledged that the Project is a covered action. The County will file a Certificate of Consistency with the Delta Stewardship Council prior to project implementation.

Comment 1-2

General Policy 1: Detailed Findings to Establish Consistency with the Delta Plan

Delta Plan Policy **G P1** (Cal. Code Regs., tit. 23, § 5002.) specifies what is required to be addressed in a Certification of Consistency by a certifying agency for a project that is a covered action. The following is a subset of policy requirements that a project is required to fulfill to be considered consistent with the Delta Plan:

Mitigation Measures

Delta Plan Policy **G P1(b)(2)** (Cal. Code Regs., tit. 23, § 5002, subd, (b)(2).) requires covered actions not exempt from the CEQA to include all applicable feasible mitigation measures adopted and incorporated into the Delta Plan as amended April 26, 2018, unless the measures are within the exclusive jurisdiction of an agency other than the agency that files the Certification of Consistency, or substitute mitigation measures that the agency finds are equally or more effective. These mitigation measures are identified in Appendix O of the Delta Plan and are available at: https://deltacouncil.ca.gov/pdf/delta-plan/2018-appendix-o-mitigation-monitoring-and-reporting-program.pdf.

The Draft IS/MND identifies potentially significant impacts that can be mitigated to a less-than-significant level with the implementation of specified mitigation measures for Biological Resources, Cultural Resources, Tribal Cultural Resources, Noise, Hazards and Hazardous Materials, and Wildfires.

Response 1-2

As part of its submittal to the Delta Council, the County will provide a crosswalk table comparing the measures contained within the Delta Plan Ecosystem Amendment Mitigation, Monitoring, and Reporting Program (dated June 2022) to the mitigation measures contained in the IS/MND showing that the measures included in the project are equal or more effective than those listed in Delta Plan.

Comment 1-3

Delta Plan Policy G P1(b)(3) (Cal. Code Regs., tit. 23, § 5002, subd. (b)(3).) states that actions subject to Delta Plan regulations are required to document the use of best available science as relevant to the purpose and nature of the project. The Delta Plan defines best available science as "the best scientific information and data for informing management and policy decisions." (Cal. Code Regs, tit. 23, § 5001, subd. (f).) Best available science is also required to be consistent with the guidelines and criteria in Appendix 1A (Cal. Code Regs, tit. 23, div., 6 Ch. 2, app. 1A) and also in the Delta Plan (https://deltacouncil.ca.gov/pdf/delta-plan/2015-appendix-1a.pdf).

In a future Certification of Consistency, Solano County should directly identify how the mitigation bank project addresses each Best Available Science criterion outlined in Appendix 1A.

Response 1-3

The County will provide detailed findings to the Delta Stewardship Council demonstrating the project's consistency with Delta Plan Policy G P1(b)(3) and Appendix 1A addressing Best Available Science.

Comment 1-4

Adaptive Management

Delta Plan Policy G P1(b)(4) (Cal. Code Regs., tit. 23, § 5002, subd. (b)(4).) requires that ecosystem restoration and water management covered actions include adequate provisions for the continued implementation of adaptive management, appropriate to the scope of the action. This requirement is satisfied through a) the development of an adaptive management plan that is consistent with the framework described in Appendix 1 B (Cal. Code Regs, tit. 23, app. 1B) and also in the Delta Plan (https://deltacouncil.ca.gov/pdf/delta-plan/2015-appendix-1b.pdf), and b) documentation of adequate resources to implement the proposed adaptive management plan.

The ecosystem restoration components of the mitigation bank project would require the preparation of an adaptive management plan. Please visit the Interagency Adaptive Management Coordination webpage for resources to help create a more effective adaptive management plan, including a checklist of what to include, examples from other plans, monitoring resources, and more.

Response 1-4

The County will provide detailed findings to the Delta Stewardship Council demonstrating the project's consistency with the Delta Plan's three phase and nine-step adaptive management framework as described in Appendix 1B of the Delta Plan.

Comment 1-5

Ecosystem Restoration Policy 2: Restore Habitats at Appropriate Elevations

Delta Plan Policy ER P2 (Cal. Code Regs., tit. 23, § 5006.) requires habitat restoration be carried out consistent with Appendix 3. (Cal. Code Regs, tit. 23, app. 3.) The elevation map (Cal. Code Regs, tit. 23, app. 4.), which is also included as Figure 4-6 in the Delta Plan (https://deltacouncil.ca.gov/pdf/delta-plan/figure-4-6-habitat-types-based-on-elevation.pdf), should be used as a guide for determining appropriate habitat restoration actions based on an area's elevation.

As part of a future Certification of Consistency for the mitigation bank project, Solano County should consider addressing any deviations from this policy and document how the proposed habitat restoration action is appropriate for these elevations based on best available science.

Response 1-5

The County will provide detailed findings to the Delta Stewardship Council that includes a completed Appendix 4A form consistent with Delta Plan Policy ER P2 for *Protecting, Restoring, and Enhancing Habitats at Appropriate Elevations* that demonstrates how the proposed habitat restoration actions are appropriate for the project site's existing elevations.

Comment 1-6

Ecosystem Restoration Policy 5: Avoid Introductions of and Habitat Improvements for Invasive Nonnative Species

Delta Plan Policy ER P5 (Cal. Code Regs., tit. 23, § 5009.) requires that covered actions fully consider and avoid or mitigate the potential for new introductions of, or improved habitat conditions for

invasive nonnative species in a way that appropriately protects the ecosystem.

Solano County should acknowledge Policy ER P5 in the Biological Resources section of the Final IS/MND. The Final IS/MND should analyze how the mitigation bank project will address both nonnative wildlife species as well as terrestrial and aquatic weeds. In addition to the invasive species already identified in the Draft IS/MND, Solano County should also consider how nutria and the golden mussel could affect the mitigation bank project. The Final IS/MND should analyze how the mitigation bank project will avoid or mitigate for conditions that would lead to the establishment of nonnative invasive species. If that mitigation is warranted, mitigation and minimization measures are required to include Delta Plan Mitigation Measure 4-1 (available at: https://deltacouncil.ca.gov/pdf/delta-plan/2018-appendix-o-mitigation-monitoring-and-reporting-program.pdf) or substitute equally or more effective measures.

Response 1-6

The project includes long-term management activities that will include monitoring and management of nonnative invasive species. Additional text has been added to the Final IS/MND Section 2.2.7 *Post-Construction Project Components* (page 2-21) to describe existing conditions and proposed management methods related to nonnative invasive species. The project also includes *Environmental Commitment 10. Revegetation Methods* and *Environmental Commitment 11. Minimize Spread of Invasive Species* (page 2-16 of the Final IS/MND) to minimize introduction of new nonnative invasive plant species. Implementation of the environmental commitments along with the project's long-term adaptive management strategies for nonnative invasive species are consistent with Mitigation Measure 4-1 of the Delta Plan Program EIR.

Comment 1-7

Delta as Place Policy 2: Respect Local Land Use when Siting Water or Flood Facilities or Restoring Habitats

Delta Plan Policy DP P2 (Cal. Code Regs., tit. 23, § 5011.) reflects one of the Delta Plan's charges to protect the Delta as an evolving place by siting water management facilities, ecosystem restoration, and flood management infrastructure to avoid or reduce conflicts with existing or planned future land uses when feasible, considering comments from local agencies and the Delta Protection Commission.

Solano County should acknowledge DP P2 in the environmental setting for the Land Use and Planning section of the Final IS/MND (p. 3-101of the Draft IS/MND). The Final IS/MND should describe the process proposed to avoid or reduce conflicts with existing or planned future land uses.

Response 1-7

The Final IS/MND includes a discussion of Delta Plan Policy DP P2 within Section XI Land Use and Planning that describes how the project would be compatible with adjacent land uses. It has determined that the project is compatible with adjacent uses.

Comment 1-8

The Council invites Solano County to engage Council staff in early consultation prior to the submittal of a Certification of Consistency to discuss the mitigation bank project features and mitigation measures that would promote consistency with the Delta Plan.

More information on covered actions, early consultation, and the certification process can be found on the Council website, https://coveredactions.deltacouncil.ca.gov.

Response 1-8

The County met with the Delta Stewardship Council on March 3, 2025 to conduct early consultation for the project. The County intends to provide documentation demonstrating consistency with the Delta Plan to the Delta Stewardship Council for review ahead of filing a Certification of Consistency.

3.2 Letter 2

Peter G. Minkel, Engineering Geologist
Central Valley Regional Water Quality Board
11020 Sun Center Drive, #200, Rancho Cordova, CA 95670
Letter dated February 27, 2025

Comment 2-1

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the Water Quality Control Plan for the Sacramento and San Joaquin River Basins, please visit our website:
http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:
https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201805.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

Response 2-1

As discussed in Section X. *Hydrology and Water Quality* of the IS/MND, the project is located within the greater Sacramento Valley Groundwater Basin and the Solano Subbasin. Potential impacts to surface and ground water from wastewater discharge are analyzed in this section under *Impacts*, criterion a.

As indicated in the IS/MND, the project will prepare and implement a Stormwater Pollution Prevention Plan (SWPPP) that would be consistent with the *Statewide Construction General Permit* (Order No. 2022-0057-DWQ) and *Waste Discharge Requirements Limited Threat Discharges to Surface Waters* (Order No. R5-2022-0006), which include discharge sampling, monitoring, and reporting requirements, as well as the requirement to meeting water quality standards prior to discharge. Additionally, project activities would be subject to Clean Water Act CWA Section 401 Water Quality Certification for discharges of dredged or fill materials through the CVRWQCB. This certification would ensure that project activities are consistent with the state's water quality standards and criteria.

Comment 2-2

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at: http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at:

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at: http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf

Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for Limited Threat Discharges to Surface Water (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/help/permit/

Response 2-2

The project includes work in and around Waters of the State and the project proponent will apply for and acquire all relevant state and federal permits pertaining to Waters of the State.

3.3 Letter 3

Nedzlene Ferrario, Principal Planner
Solano County Airport Land Use Commission's Wildlife Hazards Subcommittee
675 Texas Street, Suite 5500, Fairfield, CA 94533
Letter dated February 27, 2025

Comment 3-1

The northwestern portion of the project site overlaps with the Inner WHA Boundary and Safety Zone 6, the traffic pattern zone, for Rio Vista Airport. (3-86.) The remainder of the site is within the Outer Wildlife Hazards Boundaries. (3-86.) Hazards to flight such as wildlife attractants are prohibited use

in this zone and subject to the policies in Section 5.8 of the Rio Vista Airport Land Use Compatibility Plan. The eastern property boundary is located 0.63 miles southeast from the existing runway. The Rio Vista Municipal Airport is owned and operated by the City of Rio Vista.

1. Mitigation measure HAZ-8, page 3-90 of the Initial Study is missing from the draft mitigation monitoring plan. Mitigation measure HAZ-8 shall be included in the staff recommendation for Planning Commission.

Response 3-1

The Mitigation, Monitoring, and Reporting Plan prepared for the project has been revised to include *Mitigation Measure HAZ-8: Conduct a Post-construction Wildlife Hazards Assessment.*

Comment 3-2

Figure 1-2 Project Location of the Initial Study shows the Rio Vista Municipal Airport at the old location, which is misleading to reviewers. The airport's current location is located northwest of the proposed mitigation bank. This issue was raised multiple times during project evaluation; however, was not corrected. Revise Figure 1 to show the current location of the Rio Vista Municipal Airport and the proximity to the proposed project.

Response 3-2

Figure 1-2 of the Final IS/MND has been updated with a more recent topographic map that depicts the current location of the Rio Vista Airport.

Comment 3-3

Section 2.4.3 Solano Airport Land Use Commission (ALUC), paragraph 2 of the Initial Study, page 2-24, states that Westervelt Ecological Services provided the report for ALUC review and comment and received no comments as of November 2024.

To clarify, ALUC review and comment are not required during the development of the Initial Study. ALUC has tasked the Wildlife Subcommittee to review the Public Draft Initial Study and provide comments during the public comment period, as evidenced by this letter.

Response 3-3

Comments from the ALUC Wildlife Hazard Subcommittee have been received.

Comment 3-4

The Initial Study includes a Wildlife Hazards Analysis (WHA) prepared by ESA, which identified impacts to airport operations as less than significant if recommended mitigation measures are adopted. The proposed mitigation measures are listed on pages 3-88 through 3-90 and include measures such as designing habitat features that minimize bird attractants, managing water levels to minimize areas that could attract birds, biological monitoring during construction, implementing adaptive management strategies, a public safety memorandum of understanding and a 3-6 year post-construction Wildlife Hazard Assessment.

4.1. The Subcommittee recommends that to address the concerns and implement the proposed mitigation measures, a comprehensive Wildlife Hazard Management Program and Plan be established for the Rio Vista Municipal Airport to reduce the threat to aircraft from wildlife interactions, prior to

construction. The project proponent shall contribute funds towards developing a Wildlife Hazard Management Program for Rio Vista Municipal Airport in order to participate and implement the Public Safety Memorandum of Understanding and Wildlife Hazards Assessment.

4.2. The Subcommittee requests that the County coordinate meetings between the project proponent, City of Rio Vista staff and Chair of the City of Rio Vista Advisory Commission to discuss the wildlife hazards concerns for the Rio Vista Municipal Airport including the proposed mitigation measures, prior to the Planning Commission public hearing.

Response 3-4

The County acknowledges that the Rio Vista Municipal Airport desires to prepare a regional plan and implement a management program to reduce threats to aircraft from wildlife interactions; however, development of such a plan and program will require regional planning efforts that would not be feasible to complete ahead of project construction, anticipated for summer 2026. The project proponent is amenable to contributing funds to help support the Rio Vista Municipal Airport's Wildlife Hazards Management Plan and Program planning efforts, since the project is located within the 5-mile radius that would be covered by the Plan and Program.

In response to the commenter's request that the County coordinate meetings with City of Rio Vista staff and Chair of the City of Rio Vista Advisory Commission to discuss wildlife hazards concerns for the Rio Vista Municipal Airport and the IS/MND mitigation measures, the Project proponent (Westervelt) has initiated correspondence with the City of Rio Vista on March 7, March 11, and March 19, 2025 to request feedback on the WHA and the proposed mitigation measures. Westervelt responded to all of the City's questions and no additional feedback on the WHA or mitigation measures has been received to date. Section 2.4.1 of the Draft IS/MND (page 2-25) summarizes past coordination with the City of Rio Vista, including the City's review of the draft WHA report in November 2024 and incorporation of the City's comments and edits into the final WHA (Appendix K: draft IS/MND).

Comment 3-5

The Subcommittee recommends the following changes to "Mitigation Measure Haz-2: Dewater the Restoration Area prior to and during Construction" (Underlines indicate additions, strikethrough indicates deletions, and bold indicates emphasis.)

Prior to initiating restoration activities, existing managed water levels on site will be reduced to the extent practicable to minimize areas of standing water that could attract birds. Groundwater encountered during construction will be managed to avoid large areas of prolonged ponding, **no longer than 48 hours. Federal Aviation Administration Advisory Circular (FAA AC) 150/5200-33C design considerations regarding off-airport stormwater basins included in Paragraph 2.3.2. shall be incorporated into the project.**

Response 3-5

In response to the recommendation to restrict ponding water duration during construction to 48 hours, this is an infeasible request due to the nature of the project activities. The purpose of the project is to restore subtidal channels that will be excavated below the daily tide levels and will intersect the water table. These areas of ponding water will be limited to the primary channels that will be actively disturbed and devoid of vegetation during construction, which will limit their use by birds. Water

management prior to and during construction will focus on minimizing water ponding across the remainder of the site, particularly within existing seasonal wetland and marsh habitats that could attract bird use during construction.

The commenters suggestion to reference design considerations in the FAA AC 150/5200-33C is not applicable to the project since the project is not proposing to construct off-airport stormwater basins. The project, when completed will be an open tidal wetland system that will be subject to daily tidal flows. Unlike closed wetland basins that can support large areas of deep ponding water unless managed otherwise, tidal wetlands on the project site will experience natural fluctuations in water surface elevations, minimizing the extent and duration of ponding.

Comment 3-6

The Subcommittee recommends the following changes to: "Mitigation Measure HAZ-7: Develop and Implement a Public Safety Memorandum of Understanding" on page 3-90 of the Initial Study. (Underlines indicate additions, strikethrough indicates deletions, and bold indicates emphasis.)

*Establish a chain of communication between the mitigation bank land manager and the Rio Vista Municipal Airport related to public safety concerns. A communication protocol will be outlined in a memorandum of understanding between the mitigation bank land manager and the City of Rio Vista. The MOU will identify primary contacts, preferred methods and frequency of communication between the mitigation bank land manager and the Rio Vista Municipal Airport, and timelines for responses and remediation. At minimum, the land manager will coordinate with the City of Rio Vista Airport Advisory Commission ~~at least once annually~~ **on a quarterly basis** to discuss current concerns and the outcome of any adaptive management activities implemented in accordance with Mitigation Measure HAZ-6.*

The Subcommittee recommends involving the City of Rio Vista Airport Advisory Commission and the Subcommittee in the chain of communication and reporting to the Rio Vista Airport Advisory Committee on a quarterly basis.

Response 3-6

The Final IS/MND *Mitigation Measure HAZ-7: Develop and Implement a Public Safety Memorandum of Understanding* (page 3-90) has been revised to include City of Rio Vista, the Rio Vista Airport Advisory Commission, and the Solano County Airport Land Use Commission Wildlife Hazard Committee during adaptive management coordination.

In response to the commenter's request to increase the frequency of coordination required by the MOU to quarterly meetings, this was determined to be unnecessary. The intent of the mitigation measure was to ensure that at minimum, coordination occurs annually. However, the frequency of meetings would be at the discretion of the parties to the MOU, as deemed necessary to address current issues.

3.4 Letter 4

Yunsheng Luo, Branch Chief
California Department of Transportation - District 4
P.O. Box 23660, Oakland, CA 94623
Letter dated February 27, 2025

Comment 4-1

Travel Demand Analysis The project vehicle miles traveled (VMT) analysis and significance determination are undertaken in a manner consistent with the Office of Planning and Research's (OPR) Technical Advisory. Per the MND, this project is found to have a less than significant VMT impact.

Response 4-1

Comment noted.

Comment 4-2

Biological Resources

Please confirm if there will be any tree removal as a part of the project and ensure management and monitoring activities listed in the MND provide details regarding frequency and schedule.

Response 4-2

Channel excavation and roadway improvements associated with the low-water crossing structure will result in the removal of existing trees that occur within the excavation footprint, but outside the Caltrans easement area. Additional details have been added to *Section 2.2.3 Habitat Restoration* to describe how tree removal has been minimized during design and will be minimized. *Section 2.2.5 Construction Characteristic* includes a description of proposed grading activities that includes retaining woody vegetation that is near the proposed grade to contribute to natural recruitment following construction. The project includes *Environmental Commitment 9: Minimize Vegetation Disturbance* to avoid and minimize removal of native vegetation including trees.

Section 2.2.7 Post-Construction Project Components of the Final IS/MND (page 2-20) has been revised to include additional details regarding the frequency and schedule of annual monitoring activities associated with long-term monitoring.

Comment 4-3

Regarding formatting of section 1.2 Organization of this Report, Figures 1-1 through 1-4 should be placed after the bulleted list of resource areas discussed in the MND. Also, please confirm in section 2.2.4 Tidal Reconnection – Low Water Crossing, if ordinary high-water (OHW) is meant to be ordinary high-water mark (OHWM)

Response 4-3

Figures 1-1 through 1-4 are listed in the Table of Contents and are referenced in Chapter 1 on the IS/MND (page 1-1).

The term Ordinary High Water (OHW) is intended to mean the same as Ordinary High Water Mark (OHWM), Section 2.2.4 of the Final IS/MND (page 2-7) has been revised to reference OHWM.

Comment 4-4

Please also note that in section 2.2.4, "Wilton Rancheia" should be "Wilton Rancheria".

Response 4-4

The spelling error within *Section 2.4.5 Tribes* of the Final IS/MND (page 2-27) pertaining to Wilton Rancheria has been corrected.

3.5 Letter 5

Alexander A. Rabidoux, PE, Assistant General Manager

Solano County Water Agency

810 Vaca Valley Parkway, Suite 202, Vacaville, CA 95688

Letter dated February 27, 2025

Comment 5-1

Section 2.2.7 Post-Construction Components

Under the Long-Term Operations and Management Monitoring section, the IS-MND discusses that the project site will continue to be monitored and managed on a regular basis in perpetuity to ensure the project's desired ecological benefits and trajectory are maintained. However, the IS-MND does not identify the source and/or entity that will be responsible for this funding and/or monitoring efforts. The IS-MND also does not identify the source and/or entity that will be responsible for the maintenance (including mowing and/or grazing) of this land that is immediately adjacent to the Mellin Levee.

Response 5-1

Section 2.2.7 of the Final IS/MND (page 2-21) has been revised to include additional detail related to the funding and responsibilities of long-term operations and management.

Comment 5-2

Section 2.4.1 City of Rio Vista | Section 2.4.2 Solano County Water Agency

In both sections, the IS-MND clearly states that future Mellin Levee improvements are proposed as part of DWR's Little Egbert Multi-Benefit Project (LEMBP), which is currently in the CEQA planning stage. DWR also informed SCWA at the April 2024 workshop, that DWR fully intends as part of the LEMBP to construct the Mellin Levee flood improvements. Nevertheless, SCWA and Rio Vista continue to have concerns with the timing of the Cache Slough Mitigation Bank and LEMBP, as there are no formal commitments by DWR or Westervelt to ensure the flood improvements to the Mellin Levee are carried out.

Response 5-2

The Project Applicant (Westervelt) does not own the property that is within the Mellin Levee footprint, which is owned by the State (Sacramento-San Joaquin Drainage District). Westervelt continues to coordinate with DWR on timing and design of future Mellin Levee improvements that are proposed as part of the Little Egbert Multibenefit Project (LEMBP). Ultimately, Westervelt does not have control over the timing and implementation of improvements to a federal levee that is part of the State Plan of Flood Control Project.

The purpose of the proposed project is to provide mitigation relief for critical infrastructure projects in the Delta and surrounding areas. Due to scarcity of mitigation credits to fulfill existing permit needs in the region, the proposed project is scheduled to be constructed ahead of future proposed Mellin Levee Improvements.

Comment 5-3

2.4.4 Adjacent Landowners

As mentioned in the IS-MND, the Sacramento San Joaquin Drainage District borders the project to the west, southwest, and southeast and includes the entire Mellin Levee, of which SCWA is the local maintaining agency. The lands are managed by the Central Valley Flood Protection Board (CVFPB) and held in fee title by DWR. Over the last thirty years, DWR has allowed various activities to occur that include a sand lease, significant vegetative growth, large stockpiles of rip rap, and cut access roads into and/or immediately adjacent to the Mellin Leve with no coordination with SCWA or our contracting partner Solano County (Channels Crew). The result is the creation of potential seasonal wetlands and vegetation immediately adjacent to the Mellin Levee toe (landward side). With the addition of the Cache Slough Mitigation Bank on the water side of the levee, SCWA is concerned about limited access, construction mobility, access to borrow material, and other construction limitations that will impact future flood improvements to the Mellin Levee. While SCWA looks forward to being an active partner with Westervelt, DWR, and the Little Egbert Tract JPA, these existing concerns are important to address, as they can have a significant impact on the cost and viability of future flood improvements to the Mellin Levee.

Response 5-3

The project has been designed to offset from the current Mellin Levee footprint to ensure future constructability of levee improvements and avoid potential conflicts between the mitigation bank and DWR's LEMBP project. The project design incorporates sufficient area between the proposed habitat berm on the project site and the Mellin Levee to incorporate a temporary construction easement large enough to allow construction equipment to gain ingress and egress during future levee construction and maintenance work. Westervelt presented this information, along with illustrations, during the April 2024 workshop with DWR, SCWA, Solano County, and the City of Rio Vista.

Comment 5-4

XXI. Mandatory Findings of Significance | Subsection (b)

(b) Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects

of probable future projects.)

SCWA disagrees with the conclusion of Less than Significant with Mitigation Incorporated, specifically when the cumulatively considerable impacts are reviewed in context of the following projects within the Yolo Bypass – Cache Slough Complex:

- Yolo Flyway Farms
- Lower Yolo Ranch
- Lookout Slough
- Peters Pocket
- Lindsey Slough
- Prospect Island
- Little Egbert Tract

When the cumulative considerable impacts are reviewed, the following sections of the ISMND would have an impact, and include:

- Section X – Hydrology and Water Quality
    - Subsection (c)
- Section XV – Public Services
    - Subsection (a) | Other public facilities | Mellin Levee

Cumulative Impacts | Section X(c) | Flooding

While the individual project is unlikely to have any significant impact on flooding, SCWA is concerned that the cumulatively considerable impacts, which include the LEMBP, are likely to have a significant impact on Flood Control to the Mellin Levee. Furthermore, based upon the existing challenges (described above) on the landward side, and the newly proposed Mitigation bank on the water side, SCWA is concerned that these actions will limit or restrict the ability to construct the proposed flood control improvements to the Mellin Levee. Lastly, while DWR has informally committed to seeing the proposed Mellin Levee flood control improvements completed (April 2024 workshop), there is no formal agreement from DWR or Westervelt committing to this obligation.

Cumulative Impacts | Section XV(a) | Public Services, Other public facilities (Mellin Levee)

As described in the IS-MND and above, the Mellin Levee is a public facility, that is part of the State Plan of Flood Control, providing flood control benefits for the entire Sacramento River Watershed. SCWA is concerned from a cumulatively considerable impact, particularly with the LEMBP, that there will be substantial adverse physical impacts on this public facility, but with no formal commitments from DWR or Westervelt, to ensure the flood improvements are completed.

Response 5-4

The hydraulic impacts analyzed as part of the project shows reductions in maximum water surface elevations along the Mellin Levee ranging from 0.1 feet to 0.3 feet in reductions during the 100-year flood along the Mellin Levee (Appendix N of the IS/MND). The reduction in maximum water surface elevation is a direct result of the proposed perimeter berm that would hydraulically separate the proposed mitigation bank from the Mellin Levee. The hydraulic model that was used in this analysis to compare the with-Project conditions to without-Project conditions included all of the past and future approved projects referenced by the commenter. The Little Egbert Multi-Benefit Project

(LEMBP) was not assessed as part of this analysis because this project is still in the project planning stage and does not have a preferred alternative that is publicly and readily available to be incorporated into the hydraulic model for a quantitative assessment.

Based on DWR's Notice of Preparation (NOP) for the Little Egbert Multi-Benefit Project Environmental Impact Report (SCH 2023060369) and the 2023 Little Egbert Multi-Benefit Project Feasibility Study prepared by the Little Egbert Joint Powers Agency (LEJPA 2023), it is our understanding that one of the primary goals of the LEMBP is to reduce local and regional flood risk to agricultural and urbanizing areas while improving flood flow capacity within the Lower Yolo Bypass. All the alternatives and design options considered in the Feasibility Study include levee repairs, including a full degrade/reconstruction of Mellin Levee and Mellin Levee Extension. The Feasibility Study reported that preliminary assessments of the LEMBP alternatives being considered indicate that impacts on water surface elevations would diminish to zero at Cache Slough at Ryer Island Ferry and extending downstream to the Sacramento River at Rio Vista (at the project site) in both 10-year and 200-year flood events. Based on the best available information we have, the LEMBP would not make flood conditions worse, and the proposed project is improving conditions along the Mellin Levee. Therefore, the project is not expected to contribute to cumulatively considerable impacts on regional flooding.

While the NOP and Feasibility Study are not commitments by DWR to implement the LEMBP, they represent the best available information we have that DWR has the intent of improving and/or repairing State Plan of Flood Control Levees, including the Mellin Levee, to accommodate increased flows within the LEMBP site. As described in the responses to Comment 5-3, the project has been designed in coordination with DWR to avoid potential conflicts with future Mellin Levee improvements and maintenance.

The commenter states that the Mellin Levee is a public facility that provides flood control benefits for the entire Sacramento River Watershed. Based on flood maps available on the USACE's National Levee Database (https://levees.sec.usace.army.mil/levees/5205001401), the 0.57-mile Mellin Levee and associated 0.60-mile Mellin Levee Extension (non-federal levee) that border the project site provide flood protection to a limited area (approximately 200 acres) of industrial and agricultural lands west of the project. As discussed above, cumulatively considerable impacts on Mellin Levee, a public facility, are not expected since the proposed project would decrease the frequency and elevations of flood waters against the Mellin Levee and the LEMBP has the goal of improving the Mellin Levee. A cumulative impact under CEQA is defined as several projects when taken together would result in an incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. As indicated the Project will reduce flood impacts. Therefore, the project, when considered with LEMBP, would not result in a substantial adverse physical impact on a public facility (Mellin Levee), nor result in a cumulative impact.

Comment 5-5

Other Cumulative Impacts

While not the direct purpose of this comment letter, SCWA continues to have significant concerns with both Water Quality and Endangered Species Act (ESA) conflicts associated with the cumulatively considerable impacts of large-scale tidal wetland restoration and the existing municipal and agricultural intakes within the Yolo Bypass - Cache Slough Complex. This includes the North Bay

Aqueduct (NBA) facility, the Napa and Solano communities that reply upon the NBA and their corresponding water treatment plant facilities, City of Vallejo's Cache Slough Pumping Plant, Reclamation District 2068, and other smaller intakes.

Response 5-5

Regarding the commenter's concern related to water quality conflicts created as a result of the project when considered cumulatively with other large-scale tidal wetland restoration projects, these potential impacts were adequately addressed in the IS/MND. As stated in *Section X. Hydrology and Water Quality* of the IS/MND, water quality impacts of the project were modeled relative to baseline and future conditions (Appendix M, Modeling Evaluation of Water Quality Changes). The baseline condition includes recently constructed or underway tidal marsh restoration projects while the future condition also includes restoration of the proposed Prospect Island, McCormack Williamson Tract and the LEMBP. This analysis concludes that the project when considered against both baseline and future conditions would not result in a substantial change in regional salinity (the largest increase of 0.4 percent at Emmaton), would have no violations of the maximum mean daily chloride objectives at any intakes, and would not result in increased concentrations of dissolved oxygen at the North Bay Aqueduct intake in Barker Slough and the City of Vallejo intake in Cache Slough. Therefore, impacts from the project to existing municipal and agricultural intakes within the Yolo Bypass – Cache Slough Complex are not anticipated and would not be considered cumulatively considerable.

Regarding the commenter's concern related to increased endangered species conflicts created as a result of the project when considered cumulatively with other large-scale tidal wetland restoration projects, this is not a CEQA consideration but rather a potential future constraint to management of water infrastructure facilities. While one of the principal objectives of tidal wetland restoration is to increase the availability of habitat for endangered species, many of the existing water facilities referenced by the commenter are currently within habitat for the endangered species that are targeted by the project and are already subject to regulations governing those species. The Cache Slough Complex Habitat Conservation Plan is currently in development and when finalized will provide State and Federal Endangered Species Act protections for local participating water intake owners and operators in the Cache Slough region.

Comment 5-6

In closing, as a wholesale water agency in the Delta, SCWA understands the importance of tidal habitat and areas of habitat mitigation. Furthermore, if Westervelt, in partnership with DWR, could phase in the flood control improvements first, many of SCWA's concerns as well as the City of Rio Vista's could be significantly reduced. Thank you for the opportunity to submit comments on the IS-MND. Should you have any questions please do not hesitate to contact myself at (707) 455-1106 or e-mail at ARabidoux@scwa2.com.

Response 5-6

The County and Westervelt agree with the commenter that constructing the Mellin Levee flood control improvements in advance of the mitigation bank would be preferred. However, these improvements are part of the LEMBP, a large-scale, multi-phase project that has a longer schedule for environmental review and implementation than the proposed project. As described in responses to Comment 5-2, the purpose of the proposed project is to provide mitigation relief for critical infrastructure projects in the Delta and surrounding areas. In order to address the current scarcity

of tidal wetland mitigation credits and meet the purpose of the project, restoration activities are proposed begin in 2026, ahead of the LEMBP.

3.6 Letter 6

Diane Burgis, Chair
Delta Protection Commission
2101 Stone Boulevard, Suite 200, West Sacramento, CA 95691
Letter dated February 27, 2025

Comment 6-1

The Commission is a state agency charged with ensuring orderly, balanced conservation and development of Delta land resources and improved flood protection. We implement the Delta Protection Act of 1992 as amended by various elements of the Delta Reform Act of 2009. Our land use authority governs proposed local government projects within the Primary Zone of the Legal Delta, which must be consistent with the Commission's Land Use and Resource Management Plan (PDF) (LURMP). The Project lies within the Primary Zone and therefore is subject to consistency requirements with the LURMP. The Commission's jurisdiction should be included in the IS/MND.

Response 6-1

Section XI. *Land Use and Planning* of the IS/MND has been revised to include a discussion of the DPC and the relevant LURMP land use policies.

Comment 6-2

While the Commission supports efforts to protect, restore, and enhance the Delta ecosystem, we encourage the County to review the Project for compliance with LURMP policies, and consider potential Project impacts to levees and surrounding properties, including nearby agriculture operations. The Project should include appropriate buffers and setbacks to adjacent agriculture parcels, ensure that creation of new riparian habitat would not create seepage onto adjacent parcels, and implement "good neighbor" policies and practices, as directed in the following LURMP policies:

> **Land Use Policy 3.** New non-agriculturally oriented residential, recreational, commercial, habitat, restoration, or industrial development shall ensure that appropriate buffer areas are provided by those proposing new development to prevent conflicts between any proposed use and existing adjacent agricultural parcels. Buffers shall adequately protect integrity of land for existing and future agricultural uses and shall not include uses that conflict with agricultural operations on adjacent agricultural lands. Appropriate buffer setbacks shall be determined in consultation with local Agricultural Commissioners, and shall be based on applicable general plan policies and criteria included in Right-to-Farm Ordinances adopted by local jurisdictions.
>
> **Land Use Policy 14.** The conversion of an agricultural parcel, parcels, and/or an agricultural island for water impoundment, including reservoirs, water conveyance or wetland development may not result in the seepage of water onto or under the adjacent parcel, parcels, and/or island. These conversions shall mitigate the risks and adverse effects associated with seepage, levee stability, subsidence, and levee erosion, and shall be consistent with the goals of this Plan.

Natural Resources Policy 6. Support the implementation of appropriate buffers, management plans and/or good neighbor policies (e.g. safe harbor agreements) that among other things, limit liability for incidental take associated with adjacent agricultural and recreational activities within lands converted to wildlife habitat to ensure the ongoing agricultural and recreational operations adjacent to the converted lands are not negatively affected.

Response 6-2

Under Land Use Policy 3, appropriate buffers shall be provided to prevent conflicts between any proposed use and existing adjacent agricultural parcels. The project site is physically separated from adjacent agricultural lands by an existing water delivery canal (Watson Hollow Slough), which will not be altered by the project. Additionally, the project has been designed to buffer future restored wetland habitat from adjacent land uses by constructing an earthen berm around the perimeter of the restored habitat. Existing access to adjacent agricultural lands will be maintained. Therefore, the project will not conflict with agricultural operations or affect the integrity of land for existing and future agricultural uses.

Under Land Use Policy 14, conversion of agricultural land for wetland development shall not cause adverse effects on adjacent agricultural lands due to seepage, levee stability and erosion, or subsidence. The project is proposing to convert agricultural land to tidal wetlands. As described above for Land Use Policy 3, restored wetlands on the project site will be buffered from adjacent agricultural lands by an existing water delivery canal (Watson Hollow Slough) and a constructed earthen berm. The constructed earthen perimeter berm will also serve as the primary access road for the project and will be maintained to prohibit tree growth. The perimeter berm will provide a buffer between the restored wetland and riparian habitats and the Mellin Levee to protect from erosion and seepage. With these buffers in place, the project will not result in adverse effects on neighboring agricultural parcels or nearby levee facilities.

Under Natural Resources Policy 6, limit liability for incidental take of endangered species associated with adjacent agricultural and recreational activities. While one of the principal objectives of tidal wetland restoration on the project site is to increase the availability of habitat for endangered species, these habitats already exist within or in close proximity to existing agricultural lands adjacent to the project. Ditches throughout these agricultural lands provide suitable habitat for giant garter snake, a state and federally threatened species that could occupy the restored habitat on the project site. Other target species habitats on the project site include several state and federally listed fish that presently occupy the adjacent Sacramento River and Cache Slough. The project is not expected to create additional endangered species conflicts with adjacent agricultural lands since these lands are already subject to regulations governing those species.

Consistent with the policies of the Delta Plan and the LURMP, a Good Neighbor Checklist has been completed for the project (Attachment A) and will be included as part of the County's Certificate of Consistency to be filed with the Delta Stewardship Council prior to project implementation.

Comment 6-3

The attached "Good Neighbor Checklist," located in Appendix Q2 of the Delta Stewardship Council's Delta Plan, identifies considerations for habitat restoration project planning that can support agricultural communities, reinforce the benefits of conservation partnerships, reduce conflict and project delays, and help achieve sustainable conservation. The Project proponents should consult the Checklist to reduce project impacts on neighboring landowners and local agencies.

Response 6-3

The "Good Neighbor Checklist" (contained in the Delta Plan) has been completed for the project (Attachment A) and will be included as part of the County's Certificate of Consistency to be filed with the Delta Stewardship Council prior to project implementation.

Comment 6-4

Construction of the low water crossing under State Route 84 will require traffic controls, including maintaining one lane open for travel and use of flaggers. Given the importance of the State Route 84 for neighboring residents and commuters, we encourage the Project proponent to regularly consult with the community regarding construction activities on the highway.

Response 6-4

Section 2.2.5 of the Final IS/MND (page 2-12) describes staged construction on State Route 84 during construction of the low water crossing. Traffic control plans have been prepared and will be implemented for the project including coordination with Caltrans to obtain an encroachment permit for the project. The encroachment permit will include specifications consistent with Chapter 2 (Safety and Traffic) of the Caltrans Construction Manual (May 2022) that includes informing the public (Section 2-211).

3.7 Letter 7

Erin Chappell, Regional Manager
California Department of Fish and Wildlife, Bay Delta Region
2825 Cordelia Road, Suite 100, Fairfield, CA 94534
Letter dated March 6, 2025

Comment 7-1

The CEQA Guidelines (§§15124 & 15378) require that the MND incorporate a full project description, including reasonably foreseeable future phases of the Project, and that contains sufficient information to evaluate and review the Project's environmental impact.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Solano County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends in the comments below CDFW concludes that a MND is appropriate for the Project.

Response 7-1

Comment noted. The IS/MND has been amended as appropriate to include feasible mitigation measures for any potentially significant impacts.

Comment 7-2

Biological Resources Assessment Section 1.2, Page 1

Issue: The Project has the potential to encroach into riparian vegetation (i.e., "riparian zone"), temporarily impact, and/or convert existing riparian habitat into another habitat type from development of the Project. Riparian conversion/encroachment into the riparian zone can adversely impact sensitive riparian and aquatic species through reduction of habitat and decreased water quality. Specifically, there are a number of riparian dependent avian species [e.g. Swainson's hawk (*Buteo swainsoni*), western yellow-billed cuckoo (*Coccyzus americanus*), Yellow warbler (*Denroica petechia*), and Song sparrow (*Melospiza melodia*)] and a variety of listed fish species [e.g., Delta smelt (*Hypomesus transpacificus*), Longfin smelt (*Spirinchus thaleichthys*), Central Valley steelhead (*Oncorhynchus mykiss irideus*)] that may rely on the ecosystem services of the existing riparian area when the area is flooded under current conditions.

Evidence impact would be significant: Riparian vegetation, and associated floodplains, provide many essential benefits to stream and aquatic species habitat, including thermal protection, cover, and large woody debris (Moyle 2002, CDFW 2007). Development adjacent to, or conversion of, the riparian zone can result in fragmentation of riparian habitat and decreases in native species abundance and biodiversity (Davies et al. 2001, Hansen et al. 2005, CDFW 2007). Riparian buffers help keep pollutants from entering adjacent waters through a combination of processes including dilution, sequestration by plants and microbes, biodegradation, chemical degradation, volatilization, and entrapment within soil particles. Narrow riparian buffers are considerably less effective in minimizing the effects of adjacent development than wider buffers (Castelle et al. 1992, Brosofske et al. 1997, Dong et al. 1998, Kiffney et al. 2003, Moore et al. 2005).

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Project Description and Related Impact Shortcoming)

Recommendation 1: CDFW recommends the Project establish riparian buffer zones to limit development and vegetation clearing to outside of and away from riparian areas. CDFW also recommends limiting any proposed riparian conversion to the minimum necessary and identifying opportunities for riparian enhancement. CDFW staff are available to consult with Solano County to determine appropriate site-specific riparian buffers, and/or opportunities for riparian enhancement to reduce impacts to sensitive species and riparian habitat to less-than-significant. We also recommend that the Project find higher elevation areas within the Project footprint that can support riparian enhancements to minimize the need for offsite riparian mitigation to compensate for riparian habitat conversions or evaluate a Project design alternative that avoids impacts to riparian forest. Additionally, the Project should notify CDFW pursuant to Fish and Game Code section 1600 et seq. for Project activities affecting lakes or streams and associated riparian habitat, and comply with the LSA Agreement, if issued. Temporarily impacted areas within the riparian zone or other sensitive natural communities should be restored and planted with native trees, shrubs and grasses. CDFW recommends that permanent impacts to riparian habitat or other sensitive natural communities be replaced in-kind when possible, and be assessed on a per-species basis, and mitigation follow species-specific needs.

Response 7-2

In responses to the commenter's recommendation to establish riparian buffers to limit development and vegetation clearing to avoid riparian areas, this would not be applicable to the project since the

project does not propose permanent development. Construction of the low-water crossing will require removal of riparian vegetation, but this cannot be avoided since the structure would require breaching the existing levee that is vegetated with riparian vegetation. The project was designed to site the low-water crossing structure in an area that minimizes riparian impacts.

In response to the commenter's recommendation to limit proposed riparian conversion and identify enhancement opportunities, the purpose of the project is to retore both tidal freshwater wetland and floodplain riparian habitat on the project site. *Section 2.2.3 Habitat Restoration* of the Final IS/MND (page 2-5) describes how tree removal has been minimized during restoration design and *Section 2.2.5 Construction Characteristics* of the Final IS/MND (page 2-11) includes a description of proposed grading activities that includes retaining woody vegetation that is near the proposed grade to contribute to natural recruitment following construction. The project also includes *Environmental Commitment 9: Minimize Vegetation Disturbance* to avoid and minimize removal of native vegetation. Existing riparian vegetation that is located at higher elevations, above the mean higher high water on the project site will be retained and incorporated into the riparian restoration footprint (Figure 3-2). Also, because much of the existing riparian habitat onsite consists largely of sandbar willow (*Salix exigua*), it is expected that this vegetation will survive tidal inundation within the upper elevations of the tidal wetland restoration footprint and be retained. While the project will result in some conversion of riparian habitat to tidal freshwater marsh, and some temporary and permanent riparian habitat removal associated with construction of the low-water crossing, the project will have a substantial net increase in riparian habitat (approximately 40 acres) and a net benefit to aquatic and terrestrial species that use riparian habitat or shaded riverine aquatic habitats for all or a part of the life histories.

In response to the commenter's recommendation for restoration of temporarily impacted riparian habitat and replacement of permanent impacts, *Environmental Commitment 10. Revegetation Methods* the IS/MND (page 2-16) states that all temporarily disturbed areas will be decompacted, if necessary, and seeded/planted with an assemblage of native riparian, wetland, and/or upland plant species suitable for the area. Permanent impacts to riparian habitat and other sensitive natural communities (i.e., emergent marsh and seasonal wetlands) will be mitigated by restoring over 46 acres of floodplain riparian habitat and 236 acres of emergent marsh habitat as part of project activities; therefore, the project would be self-mitigating.

The project proponent intends to notify CDFW under California Fish and Game Code Section 1600 to apply for an obtain a Streambed Alteration Agreement prior to project implementation.

Comment 7-3

COMMENT 2: Aquatic Organism Connectivity/Fish Passage

IS/MND Section 2.1.3 General Site Conditions, Page 2-1

Issue: The IS/MND states that a primary Project objective is to improve volitional fish passage onto and off of the Project area. It is later described in the IS/MND that water and connectivity between habitat features will be maintained through open culverts. Without careful implementation of the Long-Term Management Plan, these water control features could represent a barrier to fish or other aquatic organism passage. Ponding or retaining water through the use of new and enhanced berms in addition to water control structures can reduce aquatic connectivity and disconnect fish within unfavorable habitat within the Project area and from the Sacramento River.

Evidence impact would be significant: Habitat fragmentation of watercourses as a result of impoundment and water control purposes is considered one of the major threats to worldwide aquatic biodiversity, including freshwater fishes (Liermann et al., 2012, Nicola et al., 1996, Poulet, 2007). The Delta serves as a migration corridor for all anadromous fish species in the Central Valley. Anadromous and resident native fish species require volitional access to all Delta habitats available to them to meet their basic life history requirements (e.g., spawning, rearing, migration). Instream barriers to fish passage and unscreened water diversions impede migratory and rearing movements and adversely affect overall species survival.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)

Mitigation Measure RS.P-5: Protect and enhance wildlife movement corridors to ensure the health and long-term survival of local animal and plant populations. Preserve contiguous habitat areas to increase habitat value and to lower land management costs.

Recommendation 2: The IS/MND should provide information on how and when fish will be able to access the site and how volitional passage will be maintained (fish passage structure design, scientific references, modeling, etc.) without the risk for stranding. CDFW recommends the Project proponent includes a water management plan that can ensure that disconnected, ponded water is minimized or eliminated to prevent stranding juvenile fish within the Project area. In addition, the IS/MND should require that all inlet pumps on water control structures be fitted with fish screens that adhere to CDFW's fish screening criteria to reduce entrainment or impingement of fish. CDFW's fish screening criteria can be found in the California Salmonid Stream Restoration Manual's Appendix S available at: https://wildlife.ca.gov/Grants/FRGP/Guidance. CDFW also recommends only using open bottomed culverts in areas where fish passage is required.

Response 7-3

The commenter references *Section 2.1.3 General Site Conditions* of the IS/MND as stating that habitat features will be maintained through open culverts (water control features). The culvert discussion in this section is related to existing site conditions and not proposed conditions. Currently there are water control structures that include culverts to provide water to the site for irrigation purposes. These water control features are not intended to provide habitat connectivity and will not be retained as part of the project. The discussion for existing hydrology refers to culverts that connect Watson Hollow Slough (adjacent to the project site) and Sacramento River. The project does not include a direct hydrologic connection to Watson Hollow Slough and will not utilize these existing culverts for fish passage.

As described in Section 2.2.4 *Tidal Reconnection – Low Water Crossing* of the IS/MND (page 2-7), tidal connection to the project site would be accomplished by installing a new low-water crossing structure under State Route 84 to connect restored habitat to Cache Slough/Sacramento River. The structure would consist of a free-span bridge over a subtidal channel with a bottom elevation of -2 NAVD 88. At that elevation the channel would maintain a minimum 4-foot depth of water during mean lower low water (MLLW) to provide fish access throughout the daily tidal excursion. An additional description of how the tidal opening was designed to provide fish access has been added to Section 2.2.4 *Tidal Reconnection – Low Water Crossing* (page 2-7) of the Final IS/MND.

As stated in Section 2.2.3 *Habitat Restoration* (page 2-5) and described under grading activities in Section 2.2.5 *Construction Characteristics* (page 2-11) of the IS/MND, the backwater channels and

floodplain terraces have been designed with positive slopes to ensure complete drainage of the site during daily tidal flows to reduce the likelihood of fish stranding.

Because the project does not include operation of water control structures to maintain habitat features, the recommendation for fish screens is not necessary. If pumps are used during construction dewatering within areas that could harbor fish, then CDFW's fish screening criteria would be adhered to.

Comment 7-4

COMMENT 3: Compatibility of Land Uses

IS/MND Environmental Setting, Page 3-103

Issue: The Project description states that there is a history of agricultural land uses at the site that likely includes the use of herbicides/insecticides. Additionally, the IS/MND states that there is an abandoned natural gas well and associated infrastructure in the northwest corner of the bank property, that recreational access including hunting will increase, and ongoing grazing is planned for the upland areas.

Evidence impact would be significant: Recent work in the Delta (Anzalone et al., 2022, Fuller et al., 2022) suggests that the agricultural land use history of a site can impact juvenile rearing of Delta native fishes. Anzalone et al., (2022) found significantly higher concentrations of organochlorines recorded in floodplain rearing fish and bioavailable organochlorine in floodplain sediment compared to the Sacramento River. These findings suggest that within these habitats, juvenile Chinook salmon (Oncorhynchus tshawytscha) feeding primarily on zooplankton within the water column may be exposed to a greater range of pesticides than those feeding on benthic macroinvertebrates, and that the benefits of floodplain rearing may come at a cost of increased organochlorine exposure. Other studies have documented higher growth rates associated with floodplain rearing of hatchery origin juvenile salmonids but with variable survival rates (Katz and et al., 2017, Jeffres et al., 2020). Public access and hunting can sometime conflict with conservation objectives, particularly in ecologically sensitive areas. Increased human activity, recreation, and infrastructure development may impact habitat integrity, disrupt wildlife corridors, and introduce degradation risks such as erosion, pollution, and vegetation loss. Expanded recreational facilities may further increase pressures on natural resources, particularly if not carefully sited and managed. Light pollution, increased human-wildlife interactions, noise disturbances, and wastewater management are additional concerns that could degrade habitat quality and ecosystem function. Without careful planning and mitigation, these impacts could undermine the long-term ecological value of the site.

The Project should seek to minimize any impacts from future oil or gas exploration and extraction in or around the property. The site is located above the Rio Vista Gas field and the subsurface mineral rights have been severed and are owned by various mineral rights holders who could choose to explore for or extract additional petroleum or natural gas in the future. Section 15.2 Mineral Ownership from the Cache Slough Mitigation Bank Prospectus states that a minimum two-acre mineral site and access will be maintained outside of the Conservation Easement. We support this design feature as a way to limit impacts to this area.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)

Recommendation 3: CDFW recommends careful early planning to ensure that long-term operations and management of the site is supported by all stakeholders representing the different land uses. Specifically, we recommend developing an adaptive management plan that details the management practices associated with public, recreational, and gas/oil utility access and agricultural operations (e.g., limit or eliminate pesticide use, water management schedule relative to fish needs, etc.). Additionally, CDFW recommends expanding the size of the 2-acre mineral site as the GEOCON report cited in section 15.2 of the Biological Resource Report concluded "that future oil or gas exploration and/or extraction could be accommodated on the property by establishing a single drilling "island" of approximately 2 to 5 acres." Two acres may not be sufficient to accommodate future mineral developments. The IS/MND should also disclose any ongoing monitoring or management that will be carried out as part of an adaptive management plan or hypothesis testing.

Response 7-4

In response to the commenter's concern about increased recreational access, the project does not include recreational facilities and will not be open to the public. The IS/MND describes current uses on the project site that include private waterfowl hunting; however, future use and access to the project site will be restricted by a conservation easement that prohibits general public access in order to preserve the long-term ecological values of the mitigation bank. Therefore, the project will not create light pollution, increase human-wildlife interactions, create noise disturbances, or require wastewater management.

As stated by the commenter and described in IS/MND Section XII. *Mineral Resources*, a former gas well on the project site was plugged and abandoned in 2024 in compliance with state standards. To accommodate potential future gas or oil exploration, a mineral site and access easement has been established on the project site, outside the restoration area. Any future activities associated with oil and gas exploration are not part of the proposed project and would be subject to applicable state and federal laws and regulations.

The only agricultural activity proposed during operations and management of the mitigation bank is periodic grazing within upland areas of the project site for vegetation management. As needed, vegetation management may include application of herbicides. Herbicides will be selected based on low wildlife toxicity, particularly toxicity to herpetofauna, as well as low persistence in the environment where it is to be applied. All herbicide applications will adhere to Solano County special conditions and will follow written recommendations from a California state licensed pest control advisor (PCA).

A long-term management plan, including vegetation management and adaptive management strategies, will be prepared for the project and approved by the mitigation bank reviewing agencies prior to approval of the mitigation bank.

Comment 7-5

Beaver Abatement

Issue: The IS/MND does not directly address animal abatement, including beaver dam abatement. In 2023, CDFW established a Beaver Restoration Program and adopted a beaver depredation policy that promotes human-beaver coexistence. It is unclear if the Project will implement or adhere to this program.

Evidence impact would be significant: Beaver colonization and behavior is valuable to the ecosystems they maintain (e.g., felling trees, damming waterways), however, this behavior may lead to direct contact and potential conflict with project infrastructure. Abatement of beavers within the Project area may result in significant impacts to environmental systems within the Project area.

Recommendation 4: CDFW recommends the IS/MND include an evaluation of potential beaver colonization within the Project area and potential beaver damage to existing or future Project infrastructure. The IS/MND should identify effective and feasible non-lethal deterrent strategies and options that could be implemented in lieu of lethal beaver management. Installation of these devices and equipment may be done proactively to prevent beaver damage or may be pursued to abate damage as an alternative to pursuing depredation. CDFW also recommends as an alternative that the Project be designed to be inclusive of beaver establishment and resilient to beaver activities.

Response 7-5

Animal abatement is not proposed by the project and therefore the project would not be subject to the Beaver Depredation Policy. In response to the commenter's recommendation to include an evaluation of beaver colonization and potential damage to existing or future infrastructure in the Final IS/MND, we do not feel this is warranted because no existing infrastructure will be used during implementation of the project and the only new infrastructure that is proposed by the project is the low-water crossing (bridge), which will be constructed of concrete. No wood structures are proposed that could be directly impacted by beavers and necessitate abatement activities. The long-term management plan prepared for the project will include management tasks to maintain an open channel to allow tidal flows onto and off the site, which may include removal of fallen trees or debris that get lodged in the tidal opening or prohibit the free flow of water through the opening. No lethal abatement activities would be warranted.

Comment 7-6

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNDDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

Response 7-6

The project proponent will report any observations of special-status species to the CNDDB.

Comment 7-7

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying

project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

Response 7-7

The project proponent will provide payment of the CDFW environmental document filing fee to the County Clerk prior to filing of the Notice of Determination.

Chapter 4 **References**

Little Egbert Joint Powers Agency (LEJPA) 2023. Final Feasibility Study Little Egbert Multi-Benefit Project, Solano County, California. September 12.