

STAFF REPORT

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PRC 6045.9
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AMENDMENT OF LEASE

APPLICANT /LESSEE:

U.S. Department of the Interior, Fish and Wildlife Service

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Alameda, San Mateo, and Santa Clara counties.

AUTHORIZED USE:

San Francisco Bay National Wildlife Refuge.

LEASE TERM:

66 years, beginning September 1, 1981.

CONSIDERATION:

The 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.

PROPOSED AMENDMENT:

Amend the Lease to:

- Include in the Land Description, as described in Exhibit A, sovereign land in Mountain View Slough, near Mountain View, Santa Clara County, within the Don Edwards San Francisco Bay National Wildlife Refuge;
- Replace the existing Exhibit B, Site and Location Map, to make corresponding changes for consistency with the revised Land Description;
- Authorize an inclusion of a special lease provision requiring an updated sea-level rise vulnerability analysis and adaptation plan; and
- Add Exhibit C, Mitigation Monitoring Program.

All other terms and conditions of the lease shall remain in effect without amendment.

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503;
California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and the State's Best Interests Analysis:

On August 20, 1981, the Commission authorized a General Lease – Public Agency Use to the U.S. Department of the Interior, Fish and Wildlife Service (USFWS), for the operation, management, protection, and maintenance of 935 acres, more or less, of sovereign land to be used in conjunction with the San Francisco Bay National Wildlife Refuge, which encompasses refuge areas in Alameda, San Mateo, and Santa Clara counties ([Item 4, August 20, 1981](#)). The lease will expire August 31, 2047. On May 22, 1986, the Commission amended the Lease to include an additional 722.34 acres of sovereign land deeded to the State by the Leslie Salt Company ([Item, 15 May 22, 1986](#)). On September 23, 1987, the Commission again amended the Lease to include approximately 250 acres of land that were accepted in a Memorandum of Understanding with USFWS, authorized at the August 21, 1984, Commission meeting ([Item 3, September 23, 1987](#)). On October 16, 2008, the Commission amended the lease to include 360 acres, more or less, of sovereign land in Corkscrew, Smith, and Steinberger Sloughs, adjacent to Bair Island ([Item 13, October 16, 2008](#)).

The sovereign land in Mountain View Slough to be included in the existing lease is part of the South Bay Salt Pond Restoration Project (SBSRP or Project), and is shown as parcel 2 on exhibit B. The SBSRP encompasses more than 15,000 acres of former salt ponds located around the edge of south San Francisco Bay, and is the largest restoration project on the West Coast of the United States. San Francisco Bay has lost an estimated 85 percent of its historic wetlands to fill or alteration. This decline in tidal marsh habitats has caused populations of marsh-dependent fish and wildlife to dwindle. The loss of tidal marsh habitat has also decreased water quality and increased local flood risks. The main objectives of the SBSRP are to restore and enhance wetland habitats, promote the restoration of native species, maintain and improve existing levels of flood protection, provide public access and recreational opportunities, and protect and improve water quality.

Mountain View Slough is currently surrounded by levees and is located between two former salt ponds that will be restored to tidal marsh. The slough would be impacted by the Project as three levee breaches will be opened to bring tidal flows into the two surrounding ponds. The specific

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locations of these breaches would be determined during the advanced construction design phase, but their locations would generally follow the locations of historic slough channels. The Project will restore 690 acres of tidal wetlands and create 20 acres of upland habitat in the Mountain View Complex of the SBSRP. Three viewing platforms and two new trails along existing and improved levees with connections to the existing Bay Trail will be developed, improving public access, and promoting recreational activities. The restoration will also build resiliency to sea-level rise along the South Bay's shoreline.

Overall, the Project is considered beneficial because it will protect public health and safety and promote habitat restoration and public access. The proposed lease includes certain provisions protecting the public use of the proposed lease area by requiring the USFWS to obtain necessary permits for the Project. The USFWS has also adopted an Environmental Impact Report and a Mitigation Monitoring Program to substantially reduce or eliminate potentially significant impacts resulting from the Project. The Project does have significant and unavoidable impacts associated with recreation. One of these is a temporary impact associated with short-term construction closures of park and access facilities to protect public safety during construction. The other is that although the Project would add several new public access and recreation features, others had to be removed from the Project due to concerns over impact on sensitive wildlife species; for this reason the Project did not meet the project significance threshold of providing "maximum feasible public access" under Bay Conservation and Development Commission (BCDC) policy. Over the long term, the Project will promote Public Trust uses in the area by adding public access and recreation opportunities, along with enhancing habitat, restoring tidal wetlands, and improving water quality.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is located in South San Francisco Bay, which is a tidally influenced site vulnerable to flooding at current sea levels; therefore, this area will likely be at a higher risk of flood exposure given future projection scenarios of sea-level rise.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to

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apply a conservative approach based on both current emission trajectories and the lease location. The San Francisco tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

Table 1. Projected Sea-Level Rise for San Francisco¹

Year	Projection (feet)
2030	0.8
2050	1.9
2070	3.5
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update

Note: ¹ Projections are with respect to a 1991-2000 baseline.

The proposed amendment to SBSRP Phase 2 (Phase 2 or Project) includes the restoration of Mountain View Slough and Ponds A1 and A2W, including improving resiliency to sea-level rise along the South Bay's shoreline. The goal of Phase 2 is to create self-sustaining tidal wetlands, a transition zone for accommodating sea-level rise, and uplands that provide valuable habitat for special status species, as well as improve water quality in San Francisco Bay and provide public access for compatible, passive recreation.

Mountain View Slough and Ponds A1 and A2W are part of the Don Edwards San Francisco Bay National Wildlife Refuge, which has a 2012 Comprehensive Conservation Plan to address climate change, including the effects of sea-level rise. This plan recognizes that much of the refuge is located below sea level, placing it at greater risk of inundations, and identifies strategies and partnerships to determine how best to address sea-level rise and inform management decisions. Implementation of Phase 2, including the restoration of Mountain View Slough and Ponds A1 and A2W, will help address the effects of sea-level rise by creating fringing marsh to protect surrounding cities.

With a goal of improving resiliency to sea-level rise, Phase 2 incorporated the National Research Council's (NRC) 2012 sea-level rise projections, the best available science at the time, and considered the effects of changing shorelines, storms, and other extreme events in the Project design. At the time of Project approval, the NRC projected sea levels to rise up to 2 feet by 2050 and 5.48 feet by 2100. The NRC 2012 projections are consistent with the best available science out to 2050 and differ when projecting sea-level rise to 2100. To address this, a lease

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provision was added to ensure an adaptive management approach to sea-level rise is being taken on this lease premises, and that this additional planning step will facilitate greater resiliency of Public Trust resources, including public access routes in the southern portion of the pond complex identified as critical to the preservation and enhancement of scenic resources.

Conclusion:

For all the reasons above, staff believes the amendment of this lease will support and enhance Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the Public Trust; 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, and with Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. An Environmental Impact Statement/Environmental Impact Report (EIS/EIR), State Clearinghouse No. 2013092010, was prepared for this Project by the U.S. Fish and Wildlife Service and the California State Coastal Conservancy. The State Coastal Conservancy certified the EIR on May 26, 2016, as the lead agency. Staff has reviewed this document and Mitigation Monitoring Program prepared pursuant to the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6) and adopted by the lead agency.

A Mitigation Monitoring Program, Findings, and Statement of Overriding Considerations made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15093, and 15096) are contained in the attached Exhibits C and D.

3. 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 the nominating agency's participation in the CEQA review process, it is staff's opinion that the Project, as proposed, is consistent with its use classification.

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4. Approval or denial of the amendment is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.

APPROVALS OBTAINED:

San Francisco Regional Water Quality Control Board
U.S. Army Corps of Engineers
U.S. Fish and Wildlife Service
San Francisco Bay Conservation and Development Commission

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an EIS/EIR, State Clearinghouse No. 2013092010, was prepared for this Project by the U.S. Fish and Wildlife Service and the California State Coastal Conservancy and that the State Coastal Conservancy certified the EIR on May 26, 2016, and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program, as contained in the attached Exhibit C.

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

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

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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.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease amendment will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the Public Trust; and is in the best interests of the State.

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 6045.9, a General Lease – Public Agency Use, effective June 28, 2019, to include in the Land Description, as described in Exhibit A, sovereign land in Mountain View Slough; include special lease provisions requiring an updated sea-level rise vulnerability analysis and adaptation plan; include Exhibit C, Mitigation Monitoring Program; and replace the existing Exhibit B, Site and Location Map, with the attached Exhibit B, Site and Location Map (for reference purposes only). All other terms and conditions of the lease shall remain in effect without amendment.

EXHIBIT A

PRC 6045.9

LAND DESCRIPTION

Two parcels land lying adjacent to the San Francisco Bay, Counties of San Mateo and Santa Clara, State of California, and more particularly described as follows:

Parcel 1 – Steinberger Slough, Smith Slough, and Corkscrew Slough

All that tide and submerged land located within Steinberger Slough, Smith Slough, and Corkscrew Sloughs, lying adjacent to protracted Sections 31 and 32, Township 4 South, Range 3 West, MDM as shown on that GLO Plat approved March 28, 1884, and protracted Sections 5, 6, 7, 8, 17, and 18, Township 5 South, Range 3 West, MDM as shown on that GLO Plat approved April 30, 1912, and protracted Sections 1 and 12, Township 5 South, Range 4 West, MDM as shown on that GLO Plat approved November 13, 1917 and more particularly described as Parcel "H" of Sovereign Land Location No. 43, Patented February 1, 1968, recorded in Book 5426, Page 126 of the Official Records of San Mateo County.

Parcel 2 – Mountain View Slough

All those lands described as Parcel "E" in Exhibit "A" of that Corporation Grant Deed, Recorded in Book 8013 at Page 378, Official Records of Santa Clara County.

END OF DESCRIPTION

Prepared by the California State Lands Commission Boundary Unit May 16, 2019.



NO SCALE

EXHIBIT B



STEINBERGER, SMITH, CORKSCREW, AND MOUNTAIN VIEW SLOUGHS

**CALIFORNIA STATE
LANDS COMMISSION**

PRC 6045.9
US FISH AND WILDLIFE SERVICE
GENERAL LEASE - PUBLIC AGENCY USE
SAN MATEO AND SANTA CLARA COUNTIES

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.



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EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
SOUTH BAY SALT POND RESTORATION PROJECT, PHASE 2
(PRC 6045.9, State Clearinghouse No. 2013092010)

The California State Lands Commission (Commission or CSLC) is a responsible agency under the California Environmental Quality Act (CEQA) for the South Bay Salt Pond Restoration Project, Phase 2 (Project). The CEQA lead agency for the Project is the California State Coastal Conservancy.

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 impose 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 certified an EIR, State Clearinghouse No. 2013092010, adopted an 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 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.

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

Table C-1. Project Impacts and Applicable Mitigation Measures

Potential Impact	Mitigation Measure (MM)²
SBSP Impact 3.4-5. Potential impacts to water quality from other contaminants.	SBSP Impact 3.4-5a. Stormwater Pollution Prevention Plan.
SBSP Impact 3.4-5. Potential impacts to water quality from other contaminants.	SBSP Mitigation Measure 3.4-5b. Selenium management.
SBSP Impact 3.4-5. Potential impacts to water quality from other contaminants.	SBSP Mitigation Measure 3.4-5c. Actions to minimize illegal discharge and dumping.
SBSP Impact 3.4-5. Potential impacts to water quality from other contaminants.	SBSP Mitigation Measure 3.4-5d. Monitoring sediments to follow existing guidance and comply with emerging regulations.
SBSP Impact 3.4-5. Potential impacts to water quality from other contaminants.	SBSP Mitigation Measure 3.4-5e. Urban runoff management.
SBSP Impact 3.4-5. Potential impacts to water quality from other contaminants.	SBSP Mitigation Measure 3.4-5f. Bacteria monitoring and risk Communication.
SBSP Impact 3.4-6. Potential to cause seawater intrusion of regional groundwater sources.	SBSP Mitigation Measure 3.4-6. U.S. Fish and Wildlife Service and California Department of Fish and Wildlife will coordinate with Alameda County Water District and Santa Clara Valley Water District.
SBSP Impact 3.8-1. Potential disturbance of known and/or unknown cultural resources.	SBSP Mitigation Measure 3.8-1. Discovery of unknown resources.
SBSP Impact 3.8-2. Disturbance of the historic salt ponds and associated structures which may be considered a significant cultural landscape.	SBSP Mitigation Measure 3.8-2. Cultural landscape, inventory of resources, treatment of finds.
SBSP Impact 3.12-3. Potential increase in parking demand.	SBSP Mitigation Measure 3.12-3. Parking at recreational facilities.
SBSP Impact 3.12-4. Potential increase in wear and tear on the designated haul routes during construction.	SBSP Mitigation Measure 3.12-4. Videotape road conditions.
SBSP Impact 3.13-1. Short-term noise effects.	SBSP Mitigation Measure 3.13-1. Short-term construction noise effects.
SBSP Impact 3.13-2. Traffic-related noise impacts during construction.	SBSP Mitigation Measure 3.13-2. Traffic-related noise.
SBSP Impact 3.13-4. Potential operational noise effects from pump operation and other operations and maintenance (O&M) activities.	SBSP Mitigation Measure 3.13-4. Operation of portable pumps.
SBSP Impact 3.14-1. Short-term construction-generated air pollutant emissions.	SBSP Mitigation Measure 3.14-1. Short-term construction-generated emissions.

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

Potential Impact	Mitigation Measure (MM)²
SBSP Impact 3.14-3. Potential exposure of sensitive receptors to toxic air contaminant emissions.	SBSP Mitigation Measure 3.14-3a. Toxic air contaminant emissions from construction within 500 feet (152 meters) of sensitive receptors.
SBSP Impact 3.14-3. Potential exposure of sensitive receptors to toxic air contaminant emissions.	SBSP Mitigation Measure 3.14-3b. Health and Safety Plan.
SBSP Phase 2 Impact 3.11-1. Potential short-term degradation of traffic operations at intersections and streets due to construction.	SBSP Phase 2 Mitigation Measure 3.11-1. Requires the U.S. Fish and Wildlife Service to coordinate with Caltrans and/or the City of Menlo Park to modify the intersection signal timing in the morning to reduce project-related delay to a level that the City does not deem significant.

ATTACHMENT C-1

**Mitigation Monitoring Program Adopted by the
California State Coastal Conservancy**

ATTACHMENT C-1

Mitigation Monitoring and Reporting Program

The Mitigation Monitoring and Reporting Program includes mitigation measures identified in the SBSP Restoration Project Final EIS/R that will be implemented to reduce adverse environmental impacts resulting from the long-term restoration plan as well as the Phase 1 actions.

Many of these mitigation measures are intended to reduce impacts that may occur in a future phase of the Project and do not apply to Phase 1. For example, the EIS/R identifies mitigation measures to reduce traffic impacts associated with transporting large amounts of fill to the Project area for levee construction. Because the Phase 1 actions do not involve levee construction, the Phase 1 traffic impacts are considered less than significant and mitigation measures are not required. However, these measures will be implemented for future phases of the Project that include levee construction and a corresponding large number of truck trips.

Chapter 3 of the Final EIS/R provides further information regarding the mitigation measures identified for the Project. Table ES-2 in the Final EIS/R Executive Summary presents the mitigation measures and indicates whether each mitigation measure applies to the long-term alternatives B and C and/or the Phase 1 actions.

Exhibit 4: EIS/R and EIS/R Table of Impacts, Table of Cumulative Impacts, and MMRP

Exhibit B: Mitigation Monitoring and Reporting Program Table

MITIGATION MEASURES	IMPLEMENTATION AND REPORTING ACTIONS	MONITORING RESPONSIBILITY	TIMING	COMPLETION DATE	APPROVED BY
3.4 Surface Water, Sediment and Groundwater Quality					
<i>SBSP Impact 3.4-5: Potential impacts to water quality from other contaminants.</i>					
<p>SBSP Mitigation Measure 3.4-5a: Stormwater Pollution Prevention Plan.</p> <p>This mitigates potential impacts due to construction related-activities and maintenance activities. The Project sponsors will obtain authorization from the RWQCB prior to beginning construction. As part of this application, the Project sponsors will prepare a Stormwater Pollution Prevention Plan (SWPPP) and require all construction contractors to implement BMPs identified in the SWPPP for controlling soil erosion and discharges of other construction-related contaminants. Routine monitoring and inspection of BMPs will be conducted to ensure that the quality of stormwater discharges is in compliance with the permit.</p> <p>BMPs that will appear in the SWPPP include:</p> <ul style="list-style-type: none"> ▪ Soil stabilization measures, such as preservation of existing vegetation and use of mulch or temporary plantings to minimize soil disturbance; ▪ Sediment control measures to prevent disturbed soils from entering waterways; ▪ Tracking control measures to reduce sediments that leave the construction site on vehicle or equipment tires; and ▪ Nonstormwater discharge control measures, such as monitoring water quality of dewatering operations and hazardous material delivery, storage, and emergency spill response requirements, and measures by the Project sponsors to ensure that soil-excavation and movement activities are conducted in accordance with 	<p>1. Prepare SWPPP in accordance with SBSP Mitigation Measure 3.4-5 and RWQCB requirements, and include the SWPPP in the project files</p>	<p>1. USFWS and CDFG or its contractors</p>	<p>1. Prior to construction</p>		
	<p>2. Incorporate the SWPPP into contractor specifications</p>	<p>2. USFWS and CDFG or its contractors</p>	<p>2. Prior to construction</p>		
	<p>3. Contractor implements SWPPP</p>	<p>3. USFWS and CDFG or its contractors</p>	<p>3. During construction</p>		
	<p>4. Monitor construction activities to verify implementation of the SWPPP. If non-compliance is noted, USFWS and CDFG will notify the contractor of required actions and the deadline for compliance. USFWS and CDFG will prepare regular reports documenting compliance or non-compliance, and include them in the project files</p>	<p>4. USFWS and CDFG or its contractors</p>	<p>4. During construction</p>		

Exhibit 4: EIS/R and EIS/R Table of Impacts, Table of Cumulative Impacts, and MMRP

Exhibit B: Mitigation Monitoring and Reporting Program Table

MITIGATION MEASURES	IMPLEMENTATION AND REPORTING ACTIONS	MONITORING RESPONSIBILITY	TIMING	COMPLETION DATE	APPROVED BY
<p>standard BMPs regarding excavation and dredging of bay muds as outlined in BCDC’s bay dredge guidance documents. These include excavating channels during low tide; using dredge equipment, such as sealing clamshell buckets, designed to minimize escape of the fine grained materials; and testing dredge materials for contaminants.</p> <p>The contractor will select specific BMPs from each area, with Project sponsor approval, on a site-specific basis. The construction general contractor will ensure that the BMPs are implemented as appropriate throughout the duration of construction and will be responsible for subcontractor compliance with the SWPPP requirements.</p> <p>Other impacts due to construction-related and maintenance activities can be mitigated by appropriate additions to stormwater pollution prevention plans, including a plan for safe refueling of vehicles and spill containment plans. An appropriate hazardous materials management plan will be developed for any activity that involves handling, transport or removal of hazardous materials.</p>					
<p>SBSP Mitigation Measure 3.4-5b: Selenium Management.</p> <p>This mitigates potential impacts from intrusion of selenium from high-selenium aquifers. As noted in Section 3.4.2, tissue-based selenium standards are currently being developed for the state of California by USEPA as part of updating the California Toxics Rule. Adoption by the state will include a plan and program of implementation. The timeline for this process is uncertain. It will likely take longer than the time to complete this EIS/R process, but is also likely to be completed before the end of the 50 year lifetime of the SBSP Restoration Project. Selenium standards and monitoring requirements will be addressed thorough the RWQCB Waste Discharge Requirements. As</p>	<p>1. Comply with the State’s selenium standards through the RWQCB Waste Discharge requirements</p> <p>2. Monitor selenium and develop food web models in accordance with RWQCB requirements</p> <p>3. Based on the results of the monitoring and modeling, develop management plans to</p>	<p>1. USFWS and CDFG or their contractors</p> <p>2. USFWS and CDFG or their contractors</p> <p>3. USFWS and CDFG or their contractors</p>	<p>1. Throughout operation of the SBSP Restoration Project</p> <p>2. Throughout operation of the SBSP Restoration Project</p> <p>3. Throughout operation of the SBSP Restoration Project</p>		

Exhibit 4: EIS/R and EIS/R Table of Impacts, Table of Cumulative Impacts, and MMRP

Exhibit B: Mitigation Monitoring and Reporting Program Table

MITIGATION MEASURES	IMPLEMENTATION AND REPORTING ACTIONS	MONITORING RESPONSIBILITY	TIMING	COMPLETION DATE	APPROVED BY
<p>long as state policies and regulations are followed in the implementation of emerging selenium objectives, there will be no significant impacts to water quality. Based on experiences in other watersheds, the Project can expect that emerging selenium regulations will require:</p> <ul style="list-style-type: none"> ▪ Monitoring chemical forms of selenium in water and sediments; ▪ Monitoring selenium in the food web; the National Science Panel recommended leveraging of existing monitoring programs to monitor selenium in bivalves in the Bay. ▪ Development of food web models linking concentrations in water and sediments to concentrations in biota; and ▪ Development of management plans to avoid harmful selenium bioaccumulation. 	<p>ensure avoidance of bioaccumulation</p> <p>4. Implement management plans and report on the findings. The findings shall be included in the project files</p>	<p>4. USFWS and CDFG or their contractors</p>	<p>Project</p> <p>4. Throughout operation of the SBSP Restoration Project</p>		
<p>SBSP Mitigation Measure 3.4-5c: Actions to Minimize Illegal Discharge and Dumping.</p> <p>This mitigation addresses illegal discharge and dumping. The likelihood of increasing frequency of illegal discharge and dumping will be minimized with adequate public education and outreach, patrolling of the area, readily accessible and frequently serviced trash and recyclable materials receptacles, and timely clean-up activities. Specifically, the Project will undertake the following activities to ensure that existing programs and practices avoid impacts due to illegal discharge and dumping:</p> <ul style="list-style-type: none"> ▪ Gate structures upstream of the Project Area will include a trash capture device that will prevent fouling of marsh and pond complexes; ▪ Plans for recreational access in the Project Area will include appropriate trash collection receptacles and a 	<p>1. Conduct public education, outreach, and patrolling of area for illegal discharge and dumping</p>	<p>1. USFWS and CDFG or their contractors</p>	<p>1. Throughout operation of the SBSP Restoration Project</p>		
	<p>2. Install trash captures devices on gate structures</p>	<p>2. USFWS and CDFG or their contractors</p>	<p>2. Throughout construction and/or operations of the SBSP Restoration Project</p>		
	<p>3. Install trash collection</p>	<p>3. USFWS and</p>	<p>3. During future</p>		

Exhibit 4: EIS/R and EIS/R Table of Impacts, Table of Cumulative Impacts, and MMRP

Exhibit B: Mitigation Monitoring and Reporting Program Table

MITIGATION MEASURES	IMPLEMENTATION AND REPORTING ACTIONS	MONITORING RESPONSIBILITY	TIMING	COMPLETION DATE	APPROVED BY
<p>plan for ensuring regular collection and servicing; and</p> <ul style="list-style-type: none"> ▪ “No Littering” signs will be posted in public access areas. 	receptacles at the newly constructed recreational features, where appropriate	CDFG or their contractors	phases of the Project that includes public access futures		
	4. Ensure regular collection and servicing of trash collection receptacle	4. USFWS and CDFG or their contractors	4. Throughout operations of the SBSP Restoration Project		
	5. Post “No Littering” signs in public access areas.	5. USFWS and CDFG or their contractors	5. During future phases of the Project that includes public access futures		
	6. Report annually on their efforts to minimize illegal discharge and dumping through the means identified above. The report shall be included in the administrative record.	6. USFWS and CDFG	6. Annual, throughout the life of the Project		
<p>SBSP Mitigation Measure 3.4-5d: Monitoring Sediments to Follow Existing Guidance and Comply with Emerging Regulations.</p> <p>This mitigation addresses potential impacts due to mobilization and transport of particle-associated pollutants. The Project will monitor contaminant concentrations in sediments whenever activities will involve moving, transporting, or emplacing soils and sediments or exposing older sediments by dredging and excavation. Existing guidance for the beneficial re-use of sediments establishes numeric screening guidelines for the placement of sediments in direct contact with water or at buried beneath a cover layer. This guidance may be refined</p>	1. Monitor contaminant concentration in sediments whenever activities involve moving, transporting, or placing soils and sediments or exposing older sediments by dredging and excavation.	1. USFWS and CDFG or their contractors	1. Throughout operation of the SBSP Restoration Project		
	2. Use the monitoring data to determine appropriate disposal or beneficial re-use	2. PMT	2. Throughout operation of the SBSP Restoration Project		

Exhibit 4: EIS/R and EIS/R Table of Impacts, Table of Cumulative Impacts, and MMRP

Exhibit B: Mitigation Monitoring and Reporting Program Table

MITIGATION MEASURES	IMPLEMENTATION AND REPORTING ACTIONS	MONITORING RESPONSIBILITY	TIMING	COMPLETION DATE	APPROVED BY
<p>by the State’s emerging program of Sediment Quality Objectives. Monitoring data will be used to follow existing guidance and follow emerging regulations for the placement of sediments and other activities that affect mobilization and transport of sediments. This translates to the following specific actions:</p> <p>Sediment monitoring data will be used to determine appropriate disposal or beneficial re-use practices for sediments. If sediment monitoring data indicate that tidal scour outside a levee breach could remobilize sediments that are significantly more contaminated than Bay ambient conditions, the Project will consult with the appropriate regulatory agencies regarding other potential required actions.</p>	<p>practices for sediments.</p> <p>3. Prepare reports identifying the results of the monitoring activities and appropriate disposal methods and include them in the project files</p>	<p>3. USFWS and CDFG or their contractors</p>	<p>3. Throughout operation of the SBSP Restoration Project</p>		
<p>SBSP Mitigation Measure 3.4-5e: Urban Runoff Management.</p> <p>This mitigation addresses potential impacts due to increased interaction of urban runoff within the Project Area. The RWQCB has a coordinated program of permitting and enforcement for regulating urban runoff discharge. As long as policies and regulations prohibiting the discharge of constituents causing pollution are carried out, significant impacts from urban runoff will be avoided.</p> <p>The Project proponents will notify the appropriate Urban Runoff Program of any physical changes (such as breaches) that will introduce urban discharges into the Project Area, and request that the Urban Runoff Program consider those changes when developing annual monitoring plans.</p>	<p>1. Notify the appropriate Urban Runoff Program of any changes that would introduce urban discharges into the Project Area and request the Program consider such changes when developing the annual monitoring plans.</p> <p>2. Comply with all relevant RWQCB policies and regulations prohibiting urban runoff discharge</p>	<p>1. USFWS and CDFG or their contractors</p> <p>2. USFWS and CDFG or their contractors</p>	<p>1. Throughout operations of the SBSP Restoration Project</p> <p>2. Throughout operations of the SBSP Restoration Project</p>		
<p>SBSP Mitigation Measure 3.4-5f: Bacteria Monitoring and Risk Communication.</p> <p>This mitigation addresses for potential impacts due to</p>	<p>1. Consider the need for additional monitoring of shellfish at each phase of the Project</p>	<p>1. USFWS and CDFG or their contractors</p>	<p>1. At each phase of the SBSP Restoration Project</p>		

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<p>bacterial growth in restored areas. The SBSP Restoration Project's National Science Panel recommended that monitoring be conducted for avian botulism and bivalve disease and toxicity to humans. Mitigation measures for avian botulism are discussed under SBSP Impact 3.6-22. The Project will consider the need for additional monitoring of shellfish as each phase is implemented. For protection of public health, a program of public outreach and communication will be developed and implemented. The program will include posting of warning signs in multiple languages where monitoring data indicate the need to advise the public of exposure risks from swimming or shellfish consumption.</p>	<p>2. Prepare a program of public outreach and communication (including the posting of warning signs regarding risks of swimming and shellfish consumption)</p>	<p>2. USFWS and CDFG or their contractors</p>	<p>2. Throughout operation of the SBSP Restoration Project</p>		
	<p>3. Implement the program and include evidence of implementation (photos of installed signs, material from public outreach events, etc.) in project file</p>	<p>3. USFWS and CDFG or their contractors</p>	<p>3. Throughout operation of the SBSP Restoration Project</p>		
<p><i>SBSP Impact 3.4-6: Potential to cause seawater intrusion of regional groundwater sources.</i></p>					
<p>SBSP Mitigation Measure 3.4-6: USFWS and CDFG (Project proponents) will coordinate with ACWD and SCVWD to ensure that the following activities take place:</p> <ul style="list-style-type: none"> ▪ If any abandoned wells are found before or during construction they will be properly destroyed by the Project as per local and State regulations by coordinating such activities with the local water district. If abandoned wells are located during restoration or other future activities within ACWD or SCVWD boundaries, a well destruction work plan will be prepared in consultation with ACWD or SCVWD (as appropriate) to ensure conformance to ACWD or SCVWD specifications. The work plan will include consulting the databases of well locations already provided by ACWD and SCVWD. The Project will properly destroy both improperly 	<p>1. Document all abandoned wells that require destruction associated with the SBSP Restoration Project</p>	<p>1. USFWS and CDFG or their contractors</p>	<p>1. Prior to construction of each phase of the SBSP Restoration Project</p>		
	<p>2. Prepare a well destruction work plan(s) for destroying wells within the ACWD or SCVWD boundaries, in association with these agencies</p>	<p>2. USFWS and CDFG or their contractors</p>	<p>2. Prior to construction of each phase of the SBSP Restoration Project</p>		
	<p>3. Destroy wells in accordance with local, State regulations, or ACWD/SCVWD</p>	<p>3. USFWS and CDFG or their contractors</p>	<p>3. Prior to construction of each phase of the SBSP Restoration Project</p>		

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<p>abandoned wells and existing wells within the Project Area that are subject to inundation by breaching levees. Well destruction methods will meet local, county and state regulations. The Project proponents will also lend support and cooperation with any well identification and destruction program that may be undertaken as part of the Shoreline Study or other projects;</p> <ul style="list-style-type: none"> ▪ The Project proponents will assist ACWD and SCVWD to obtain funding for the development, implementation, analysis and reporting of groundwater levels and groundwater quality adjacent to the Project boundaries. If groundwater monitoring detects seawater intrusion, the Project proponents will participate and assist ACWD and SCVWD in identifying the sources and causes, and in selecting and implementing an appropriate mitigation measure; and ▪ The Project will work to assist ACWD and SCVWD in the development and implementation of communication and outreach strategies that ensure groundwater users are informed on groundwater levels, quality, usage, and the linkage between groundwater overdraft and salinity intrusion. Groundwater data will be shared with groundwater users to the extent allowed by law. <p>All of these mitigation actions are coordination and communication activities that require voluntary participation of the water agencies. An advantage of Alternatives B and C over the No Action Alternative with respect to SBSP Impact 3.4-6 is that Project activities would motivate regional coordination concerning groundwater protection over the 50-year Project lifetime through these mitigation measures.</p>	specifications				
	4. Retain records of well destruction material (forms, photos, etc.) in the project files	4. USFWS and CDFG or their contractors	4. Prior to construction of each phase of the SBSP Restoration Project		
	5. Establish Memorandum of Understandings (MOUs) with ACWD and SCVWD to assist these agencies in their groundwater monitoring programs. The MOUs shall be included in the project files	5. USFWS and CDFG or their contractors	5. Prior to construction of each phase of the SBSP Restoration Project		
	6. Participate and assist ACWD/SCVWD in addressing seawater intrusion problems. Records of all correspondences with these agencies and actions shall be included in the project files	6. USFWS and CDFG or their contractors	6. Throughout operation of the SBSP Restoration Project		

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3.8 Cultural Resources					
<i>SBSP Impact 3.8-1: Potential disturbance of known and/or unknown cultural resources.</i>					
<p>SBSP Mitigation Measure 3.8-1: Discovery of Unknown Resources.</p> <p><i>Background.</i> Restoration actions planned for the SBSP Restoration Project Area shall be treated as individual archaeological projects. The overall record search for this EIS/R was performed in June 2006. A new record search shall be performed for any projects within the SBSP Restoration Project Area where the previous record search is more than five years old.</p> <p><i>Site Survey.</i> Prior to the beginning of any Project construction activity that could affect the previously unsurveyed portions of the Project Area, qualified professional archaeologists shall be retained to inventory all portions of the restoration site that have not been examined previously or have not been examined within the last 15 years. The survey(s) shall be conducted during a time when the ground surfaces of potential project sites are visible so the natural ground surface can be examined for traces of prehistoric and/or historic-era cultural resources. If the survey(s) reveals the presence of cultural resources on the Project site (<i>e.g.</i>, unusual amounts of shell, animal bone, bottle glass, ceramics, and structure/building remains), and those resources have not been dealt with sufficiently in any Cultural Landscape documentation, the resources shall be documented according to current professional standards. The resources shall be evaluated for potential eligibility to the NRHP or CRHR. Depending on the evaluation, additional mitigation measures may be required, including avoidance of the resource through changes in construction methods or Project design or</p>	<p>1. Conduct a record search for any projects within the SBSP Restoration Area in accordance with SBSP Mitigation Measure 3.8-1. Copies of searches shall be included in the project files</p>	<p>1. USFWS and CDFG or their contractors</p>	<p>1. Prior to construction of each phase of the SBSP Restoration Project</p>		
	<p>2. Hire a qualified professional archaeologist to inventory the restoration site and take appropriate actions if cultural resources are found in accordance with SBSP Mitigation Measure 3.8-1.</p>	<p>2. USFWS and CDFG or their contractors (not the professional archaeologist)</p>	<p>2. Prior to construction of each phase of the SBSP Restoration Project</p>		
	<p>3. The qualified professional archaeologist shall prepare a report specifying the findings of the inventory and any actions taken to address cultural resources. Copies of the reports shall be included in the project files</p>	<p>3. USFWS and CDFG or their contractors (not the professional archaeologist)</p>	<p>3. Prior to construction of each phase of the SBSP Restoration Project</p>		

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<p>implementation of a program of testing and data recovery, in accordance with all applicable federal and state requirements.</p> <p><i>Pre-Construction Contractor Education.</i> Prior to any Project-related construction, a professional archaeologist shall be retained to address machinery operators and their supervisors, preferably by giving an on-site talk to the people who will perform the actual earth-moving activities. This will alert the operators to the potential for finding historic or prehistoric cultural resources.</p>	<p>4. Retain a qualified professional archaeologist to conduct a pre-construction contractor education session. The material from the session shall be included in the project files</p>	<p>4. USFWS and CDFG or their contractors (not the professional archaeologist)</p>	<p>4. Immediately prior to construction of the SBSP Restoration Project phase</p>		
<p><i>Construction Monitoring.</i> Any Project-related construction that occurs within 100 ft (30 m) of a known prehistoric resource shall be monitored by a qualified professional archaeologist and a Native American monitor. If elements of the known resource or previously unknown cultural resources are encountered during Project construction, all ground-disturbing activities shall halt within a 100-ft radius of the find. The archaeologist shall identify the materials, determine their possible significance, and formulate appropriate measures for their treatment in consultation with the Native American monitor, Most Likely Descendant (MLD), or appropriate Native American representative and the appropriate Lead Agency. Potential treatment methods for significant and potentially significant resources may include, but would not be limited to, no action (<i>i.e.</i>, resources determined not to be significant), avoidance of the resource through changes in construction methods or Project design, or implementation of a program of testing and data recovery, in accordance with all applicable federal and state requirements. These measures shall be implemented prior to resumption of Project construction.</p>	<p>5. Retain a qualified professional archaeologist and a Native American to conduct monitoring activities where construction would occur within 100 feet of a known prehistoric resource.</p>	<p>5. USFWS and CDFG or their contractors (not the professional archaeologist)</p>	<p>5. During construction of each phase of the SBSP Restoration Project</p>		
<p>significance, and formulate appropriate measures for their treatment in consultation with the Native American monitor, Most Likely Descendant (MLD), or appropriate Native American representative and the appropriate Lead Agency. Potential treatment methods for significant and potentially significant resources may include, but would not be limited to, no action (<i>i.e.</i>, resources determined not to be significant), avoidance of the resource through changes in construction methods or Project design, or implementation of a program of testing and data recovery, in accordance with all applicable federal and state requirements. These measures shall be implemented prior to resumption of Project construction.</p>	<p>6. If cultural resources are found, the actions (stoppage of work, treatment, contact Native American representative, etc.) as identified in SBSP Mitigation Measure 3.8-1 shall be implemented. The qualified professional archaeologist shall prepare a</p>		<p>6. During construction of each phase of the SBSP Restoration Project</p>		
<p><u>Unanticipated Finds.</u> If contractors identify possible cultural resources, such as unusual amounts of bone, stone,</p>	<p>7. The qualified professional archaeologist shall</p>	<p>7. USFWS and CDFG or their contractors (not the</p>	<p>7. During construction of each phase of the SBSP</p>		

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<p>or shell, they shall be instructed to halt operation in the vicinity of the find and follow the appropriate contact procedures. Work shall not resume in the vicinity of the find until a qualified professional archaeologist has had the opportunity to examine the finds. The archaeologist shall identify the materials, determine their possible significance, if the finds are prehistoric, formulate appropriate measures for their treatment in consultation with the Native American monitor, MLD, or appropriate Native American representative and the appropriate Lead Agency. Potential treatment methods for significant and potentially significant resources may include, but would not be limited to, no action (<i>i.e.</i>, resources determined not to be significant), avoidance of the resource through changes in construction methods or Project design, or implementation of a program of testing and data recovery, in accordance with all applicable federal and state requirements. These measures shall be implemented prior to resumption of Project construction.</p> <p><u>Human Remains.</u> California law recognizes the need to protect interred human remains, particularly Native American burials and associated items of patrimony, from vandalism and inadvertent destruction. The procedures for the treatment of discovered human remains are contained in California Health and Safety Code Section 7050.5 and Section 7052 and California Public Resources Code Section 5097. The California Health and Safety Code requires that if human remains are found in any location other than a dedicated cemetery, work is to be halted in the immediate area.</p> <p>The appropriate Agency or the Agency's designated representative shall be notified. The Agency shall immediately notify the county coroner and a qualified professional archaeologist. The coroner is required to examine all discoveries of human remains within 48 hours</p>	<p>prepare a report identifying the treatment and disposition of the cultural resources. USFWS and CDFG shall include the copies of reports in the project files</p>	<p>professional archaeologist)</p>	<p>Restoration Project</p>		

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<p>of receiving notice of a discovery on private or state lands (Health and Safety Code Section 7050.5[b]). If the coroner determines that the remains are those of a Native American interment, then coroner shall contact the Native American Heritage Commission within 24 hours.</p> <p>The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American. The MLD may make recommendations to the landowner or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods, as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance if: (1) the Native American Heritage Commission is unable to identify a MLD or (2) the MLD fails to make a recommendation within 24 hours after being notified by the commission or (3) if the landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.</p>					
<p><i>SBSP Impact 3.8-2: Disturbance of the historic salt ponds and associated structures which may be considered a significant cultural landscape.</i></p>					
<p>SBSP Mitigation Measure 3.8-2: Cultural Landscape, Inventory of Resources, Treatment of Finds.</p> <p><i>Cultural Landscape.</i> Prior to implementation of any restoration action, a qualified professional shall be retained to determine whether the various salt works-related ponds, buildings, objects, and structures lining the southern San Francisco Bay will be reviewed as a cultural landscape</p>	<p>1. Retain a qualified professional to determine whether the elements included in each phase of the project would be considered a cultural landscape and to make a determination</p>	<p>1. USFWS, CDFG, or its contractors</p>	<p>1. Prior to construction of each phase of the SBSP Restoration Project</p>		

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<p>within the historic context and evaluation framework developed for this Project. This will be done for each Project phase. If a cultural landscape is identified, a determination must be made concerning NRHP and/or CRHR eligibility.</p> <p>If the landscape is determined to be eligible for listing to the NRHP and/or CRHR, an assessment of the Project's effects on the landscape will be conducted. This study shall include documentation of contributing elements to the resources, a list of non-contributing elements, and recommendations regarding any additional mitigation or treatment needed. Mitigation measures may include tasks such as Historic American Building Survey¹ / Historic American Engineering Record² / Historic American Landscapes Survey³ (HABS/HAER/HALS) documentation, videotaping resources, a public outreach program, or signage at appropriate points along the proposed recreational trails.</p>	concerning NRHP and/or CRHR eligibility				
	<p>2. A qualified professional shall prepare a Study evaluating the project effect on the landscape. In accordance with SBSP Mitigation Measure 3.8-2 A copy of the Study shall be included in the project files</p>	<p>2. USFWS, CDFG, or its contractors</p>	<p>2. Prior to construction of each phase of the SBSP Restoration Project</p>		
	<p>3. A qualified professional shall document additional mitigation and actions taken. Copies of all relevant material related to the actions shall be included in the project files</p>	<p>3. USFWS, CDFG, or its contractors</p>	<p>3. Prior to construction of each phase of the SBSP Restoration Project</p>		
<p>Phase 1 Mitigation Measure 3.8-1: Protection for Site ALA-593H If ALA-593H (at Ponds E12 and E13) is determined to be</p>	<p>1. Retain a qualified professional archaeologist to determine the site's</p>	<p>1. CDFG or its contractor</p>	<p>1. Prior to the construction of Phase 1</p>		

¹ The Historic American Buildings Survey (HABS) is the nation's first federal preservation program, begun by the American Institute of Architects, the Library of Congress, and NPS in 1933 to document America's architectural heritage. HABS recording combines drawings, history, and photography to produce a comprehensive, interdisciplinary record. The documentation ranges in scope depending largely upon the level of significance and complexity.

² The Historic American Engineering Record (HAER) was established in 1969 by the NPS, the American Society of Civil Engineers and the Library of Congress to document historic sites and structures related to engineering and industry. Appropriate subjects for documentation are individual sites or objects, such as a bridge, ship, or steel works; or larger systems, like railroads, canals, electronic generation and transmission networks, parkways and roads.

³ The Historic American Landscapes Survey (HALS) mission is to record historic landscapes in the United States and its territories through measured drawings and interpretive drawings, written histories, and large-format black and white photographs and color photographs.

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<p>eligible for listing to either the NRHP or CRHR, it shall be capped with soil or other appropriate materials and planted with vegetation similar to that found elsewhere on the levee to protect it.</p>	<p>eligibility for listing to either the NRHP or CRHR</p>				
	<p>2. The qualified professional shall provide a written report of its findings and recommendations, including the need to cap the site if it is eligible for listing</p>	<p>2. CDFG or its contractor</p>	<p>2. Prior to construction of Phase 1</p>		
	<p>3. If the site requires capping, CDFG shall retain a qualified professional(s) (based on the recommendations of the report) to cap and revegetate the site</p>	<p>3. CDFG or its contractor</p>	<p>3. Prior to construction of Phase 1</p>		
	<p>4. Documentation (photos, reports, etc.) of the effort shall be prepared by the professional and included in the administrative record</p>	<p>4. CDFG or its contractor</p>	<p>4. Prior to construction of Phase 1</p>		
<p>3.12 Traffic</p>					
<p><i>SBSP Impact 3.12-1: Potential short-term degradation of traffic levels on a roadway or at an intersection due to construction.</i></p>					
<p>SBSP Mitigation Measure 3.12-1: Timing of construction-related truck trips. The landowners (CDFG and USFWS) shall include in construction plans and specifications the requirement that</p>	<p>1. Incorporate into contractor specifications the requirement to limit construction-related truck trips to non</p>	<p>1. USFWS, CDFG or its contractors</p>	<p>1. Prior to construction</p>		

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construction-related truck trips, specifically deliveries of fill and equipment, shall occur outside the weekday am and pm peak commute traffic hours.	weekday peak hours				
	2. Contractor implements condition	2. USFWS, CDFG or its contractors	2. During construction		
	3. Monitors construction truck traffic to ensure that the limitations are met	3. USFWS, CDFG or its contractors	3. Throughout construction		
<i>SBSP Impact 3.12-3: Potential increase in parking demand.</i>					
<p>SBSP Mitigation Measure 3.12-3: Parking at recreational facilities.</p> <p>The Landowners (CDFG and USFWS), in coordination with the cities with jurisdiction over the proposed recreation improvements (where applicable), shall design recreational facilities with sufficient parking spaces to accommodate the projected increase in vehicles that access the site, unless adequate off-site parking is available to offset the demand for parking spaces.</p>	1. Assess the adequacy of parking spaces for future proposed recreational facilities.	1. USFWS, CDFG or its contractors	1. Prior to the design of each subsequent phase		
	2. Conduct environmental analysis of proposed recreational facilities (including parking facilities as needed). The environmental document shall be included in the administrative record	2 USFWS, CDFG or its contractors	2. During the environmental document preparation for each subsequent phase		
	3. Include necessary parking facilities in the design of the recreational component	3 USFWS, CDFG or its contractors	3. During preliminary design of the components		
	4. Verify that design of the proposed recreational components include adequate parking facilities	4 USFWS, CDFG or its contractors	4. During final design of the components		

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	5. Contractors build the recreational facilities, including parking as needed	5 USFWS, CDFG or its contractors	5. During construction		
	6. Verify that parking facilities have been built	6. USFWS, CDFG or its contractors	6. After construction of the components		
<i>SBSP Impact 3.12-4: Potential increase in wear and tear on the designated haul routes during construction.</i>					
<p>SBSP Mitigation Measure 3.12-4: Videotape road conditions.</p> <p>If residential streets are part of the designated haul route for any future phases of the SBSP Restoration Project, the landowners shall prepare a videotape of road conditions prior to the start-up of construction for the residential streets affected by the Project. The landowners (CDFG and USFWS) shall prepare a similar videotape of road conditions after Project construction is completed. The pre- and post-construction conditions of haul routes shall be reviewed by staff of the local Public Works Department. An agreement shall be entered into prior to construction that will detail the pre-construction conditions and post-construction requirements of the roadway rehabilitation program.</p>	1. Incorporate into contractor specifications the requirement to videotape road conditions for the haul routes which are residential streets (both before and after construction)	1. USFWS, CDFG or its contractors	1. Prior to each phase construction		
	2. Enter into an agreement with the affected jurisdiction(s) to establish the improvements required for the rehabilitation program. Signed copies of the agreements shall be included in the administrative record	2. USFWS and CDFG	2. Prior to each phase of construction		

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	3. Contractor implements condition and submits the videotapes to public works department(s) of affected jurisdictions. Copies of the before- and after- videotapes shall also be included in the administrative record	3. USFWS, CDFG or its contractors	3. Prior to and after each phase of construction		
	4. Review the improvements necessary along the haul routes	4. USFWS, CDFG and the public works department of the affected jurisdiction(s)	4. Prior to each phase of construction		
	5. Implement improvements. The public works department shall provide documentation that improvements have been completed. The documentation shall be included in the administrative record	5. USFWS, CDFG and the public works department of the affected jurisdiction(s) 5. USFWS and CDFG	5. After each phase of construction		
3.13 Noise					
<i>SBSP Impact 3.13-1: Short-term construction noise effects.</i>					
SBSP Mitigation Measure 3.13-1: Short-term noise effects. The landowners shall include in construction plans and specifications the following requirement:	1. If conditional use permits are acquired, file these permits in the administrative record.	1. USFWS, CDFG or its contractors	1. Prior to construction		
	2. Incorporate into	2 USFWS, CDFG,	2. Prior to		

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<p>▪ All construction activities shall be limited to the days and hours or noise levels designated for each jurisdiction where work activities occur, as specified below;</p> <p><u>Eden Landing</u></p> <ul style="list-style-type: none"> ○ City of Hayward: construction activities shall occur between 7 am and 7 pm Monday through Saturday and 10 am to 6 pm Sunday and holidays only. <p><u>Alviso</u></p> <ul style="list-style-type: none"> ○ City of San Jose: construction activities shall not exceed 55 dBA at residential-zoned districts except upon issuance of and in compliance with a Conditional Use Permit; ○ City of Fremont: there are no restrictions for temporary construction activities; ○ City of Sunnyvale: construction activities shall occur between 7 am and 6 pm Monday through Friday and 8 am to 5 pm on Saturday. Construction activities shall not occur during Sunday or national holidays; ○ Santa Clara County: construction activities shall occur during the daytime hours of 7 am to 7 pm Monday through Saturday, except legal holidays; and ○ City of Mountain View: construction activities shall occur between 7 am and 6 pm Monday through Friday. Construction activities shall not occur during Saturdays, Sundays or holidays unless prior written approval is granted by the building official. <p><u>Ravenswood</u></p>	<p>contractor specifications construction noise limitations of the affected jurisdictions as well as the requirement to maintain construction equipment and install noise control as necessary</p>	<p>or its contractors</p>	<p>construction</p>		
	<p>3. Implement condition</p>	<p>3 USFWS, CDFG, or its contractors</p>	<p>3. During construction 3. Throughout construction</p>		
	<p>4. Monitor construction activities to ensure that the limitations are met</p>	<p>4 USFWS, CDFG, or its contractors</p>	<p>4. Throughout construction</p>		
	<p>5. If construction activities occur outside the permitted hours or noise levels exceed affected jurisdictions’ noise standards, then USFWS, CDFG, or its contractor shall document the incidence and take preventive action. All documentation shall be included in the administrative record</p>	<p>5. USFWS, CDFG, or its contractors</p>	<p>5 During and after construction</p>		

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<ul style="list-style-type: none"> ○ City of Menlo Park: construction activities shall occur between 8 am and 6 pm Monday through Friday only. ▪ Locate all construction equipment staging areas at the furthest distance possible from nearby noise-sensitive land uses; and <p>Construction equipment shall be properly maintained and equipped with noise control, such as mufflers, in accordance with manufacturers' specifications.</p>					
<i>SBSP Impact 3.13-2: Traffic-related noise impacts during construction.</i>					
<p>SBSP Mitigation Measure 3.13-2: Traffic-related noise. The landowners shall include in construction plans and specifications the following requirement:</p> <ul style="list-style-type: none"> ▪ Contractors shall use haul routes that minimizes traffic through residential areas. Material hauling shall be conducted during the day-time hours only as specified in SBSP Mitigation Measure 3.13-1; and ▪ A portion of the fill for the construction of the proposed levees that provide flood protection and/or habitat features shall be transported via barge. The percentage of fill transported by barge shall be determined when the amount of construction fill required for each phase of construction has been determined. The contractor shall determine the portion of fill that will be conveyed by barge based on an assessment of the land uses along proposal haul routes. 	1. Review possible construction haul routes and identify routes that minimize construction-related traffic through residential areas or opportunities for transport by barge	1. USFWS, CDFG or its contractors	1. Prior to construction		
	2. Incorporate into contractor specifications the requirement to follow specified construction haul routes	2. USFWS, CDFG or its contractors	2. During construction		
	3. Implement condition	3. USFWS, CDFG or its contractors	3. Throughout construction		
	4. Monitors activity to ensure that construction contractors complies with the specification requirements	4. USFWS, CDFG or its contractors	4. Throughout construction		

Exhibit 4: EIS/R and EIS/R Table of Impacts, Table of Cumulative Impacts, and MMRP

Exhibit B: Mitigation Monitoring and Reporting Program Table

MITIGATION MEASURES	IMPLEMENTATION AND REPORTING ACTIONS	MONITORING RESPONSIBILITY	TIMING	COMPLETION DATE	APPROVED BY
<i>SBSP Impact 3.13-4: Potential operational noise effects from pump operation and other O&M activities.</i>					
<p>SBSP Mitigation Measure 3.13-4: Operation of portable pumps.</p> <p>Where portable pumps would be operated in the vicinity of sensitive receptors such that noise levels would exceed noise standards established by affected jurisdictions, the landowners shall enclose the portable pump to ensure that a reduction of up to 10 dB at 50 ft (15 m) is achieved and the noise levels of affected jurisdictions are met.</p>	<p>1. Review the locations of the portable pumps relative to the nearest sensitive receptor and calculate the projected noise levels based on the manufacture specifications of the pumps and the distance of the nearest sensitive receptors</p>	<p>1. USFWS, CDFG or its contractors</p>	<p>1. Prior to operation</p>		
	<p>2. If noise levels would exceed specified noise standards of affected jurisdictions, USFWS, CDFG, or its contractors shall construct enclosure for the portable pumps. Photodocumentation of the pumps shall be included in the administrative record</p>	<p>2. USFWS, CDFG or its contractors</p>	<p>2. Prior to operation</p>		
	<p>3. Operate pump with the enclosure</p>	<p>3. USFWS, CDFG or its contractors</p>	<p>3. Throughout operation</p>		
		<p>4. USFWS, CDFG or its contractors</p>			
3.14 Air Quality					
<i>SBSP Impact 3.14-1: Short-term construction-generated air pollutant emissions.</i>					
SBSP Mitigation Measure 3.14-1: Short-Term	1. Incorporate into	1. USFWS, CDFG	1. Prior to		

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MITIGATION MEASURES	IMPLEMENTATION AND REPORTING ACTIONS	MONITORING RESPONSIBILITY	TIMING	COMPLETION DATE	APPROVED BY
<p>Construction-Generated Emissions.</p> <p>The following Basic Control Measures shall be implemented at all construction sites within the Project Area, regardless of size:</p> <ul style="list-style-type: none"> ▪ Water all active construction areas at least twice daily, and more often during times of high wind; ▪ Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 ft (0.6 m) of freeboard; ▪ Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites; ▪ Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites; and ▪ Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets. <p>The following Enhanced Measures shall be implemented at construction sites larger than four acres:</p> <ul style="list-style-type: none"> ▪ Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more); ▪ Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (e.g., dirt, sand); ▪ To the extent practicable, limit traffic speeds on unpaved roads to 15 mph; ▪ Install sandbags or other erosion control measures to prevent silt runoff to public roadways; ▪ Replant vegetation in disturbed areas as quickly as possible; and ▪ Install wheel washers for all exiting trucks, or wash 	<p>contractor specifications basic, enhanced, and optional dust control measures</p>	<p>or its contractors</p>	<p>construction</p>		
	<p>2. Implement condition</p>	<p>2 USFWS, CDFG or its contractors</p>	<p>2. Throughout construction</p>		
	<p>3. USFWS, CDFG, or its contractors monitors construction activities to ensure that the specification requirements are met</p>	<p>3. USFWS, CDFG or its contractors</p>	<p>3. Throughout construction</p>		

Exhibit 4: EIS/R and EIS/R Table of Impacts, Table of Cumulative Impacts, and MMRP

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MITIGATION MEASURES	IMPLEMENTATION AND REPORTING ACTIONS	MONITORING RESPONSIBILITY	TIMING	COMPLETION DATE	APPROVED BY
<p>off the tires or tracks of all trucks and equipment leaving the site.</p> <p>These additional “Optional Measures” shall be implemented if further emission reductions are deemed necessary by the USFWS, CDFG, or BAAQMD:</p> <ul style="list-style-type: none"> ▪ Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph; and ▪ Limit the area subject to excavation, grading and other construction activity at any one time. <p>According to BAAQMD, if the required mitigation measures are implemented during project construction, short-term generated emissions would be reduced to a less-than-significant level.</p>					
<i>SBSP Impact 3.14-3: Potential exposure of sensitive receptors to TAC emissions.</i>					
<p>SBSP Mitigation Measure 3.14-3a: TAC emissions from construction within 500 ft (152 m) of sensitive receptors will require the following:</p> <ul style="list-style-type: none"> ▪ Pursuant to BAAQMD Rule 6, the Project shall ensure that emissions from all off-road diesel-powered equipment used on the Project site do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately, and USFWS, CDFG, and BAAQMD shall be notified within 48 hours of identification of noncompliant equipment. A visual survey of all in-operation equipment shall be made at least weekly, and a monthly summary of the visual survey results shall be submitted throughout the duration of the Project, except that the monthly summary shall not be required for any 30-day period in which no construction activity occurs. The monthly summary 	<p>1. Review the locations of the sensitive receptors relative to the construction site. If construction activities are within 500 feet of sensitive receptors, then the following actions would be taken:</p>	<p>1. USFWS, CDFG or its contractors</p>	<p>1. Prior to construction</p>		
	<p>2. Conduct weekly visual survey of all in-operation equipment and monthly summary of the visual surveys. The summaries shall be included in the administrative record.</p>	<p>2 USFWS, CDFG or its contractors</p>	<p>2. Throughout construction</p>		
	<p>3. Prepare and submit a plan to BAAQMD that</p>	<p>3 USFWS, CDFG or its contractors</p>	<p>3. Throughout construction</p>		

Exhibit 4: EIS/R and EIS/R Table of Impacts, Table of Cumulative Impacts, and MMRP

Exhibit B: Mitigation Monitoring and Reporting Program Table

MITIGATION MEASURES	IMPLEMENTATION AND REPORTING ACTIONS	MONITORING RESPONSIBILITY	TIMING	COMPLETION DATE	APPROVED BY
<p>shall include the quantity and type of vehicles surveyed as well as the dates of each survey. BAAQMD and/or other officials may conduct periodic site inspections to determine compliance.</p> <ul style="list-style-type: none"> ▪ USFWS and CDFG shall provide a plan for approval by BAAQMD demonstrating that the heavy-duty (more than 50 horsepower) off-road vehicles to be used in the construction Project, including owned, leased, and subcontractor vehicles, would achieve a Project-wide fleet average 45 percent particulate reduction compared to the most recent CARB fleet average. Acceptable options for reducing emissions may include use of late-model engines, low-emission diesel products, alternative fuels (<i>e.g.</i>, Lubrizol, Puri NO_x, biodiesel fuel) in all heavy duty off-road equipment. ▪ USFWS and CDFG shall require in construction plans and specifications that the model year of all off-road construction moving equipment shall not be older than 1996. ▪ USFWS and CDFG shall require in construction plans and specifications a provision that prohibits contractors from operating pre-1996 heavy-duty diesel equipment on forecast Spare-the-Air Days or on days when air quality advisories are issued because of special circumstances (<i>e.g.</i>, wildfires, industrial fires). ▪ USFWS and CDFG shall minimize idling time to 10 minutes for all heavy-duty equipment when not engaged in work activities, including on-road haul trucks while being loaded or unloaded on-site. ▪ Staging areas and equipment maintenance activities shall be located as far from sensitive receptors as possible. 	<p>demonstrates that the heavy-duty off-road vehicles used in construction would achieve particulate reduction. The plan and approval shall be included in the administrative record.</p>				
	<p>4. Incorporate into contractor specifications prohibitions on the equipment that can be used based on the model year, idling time, and staging areas.</p>	<p>4 USFWS, CDFG or its contractors</p>	<p>4. Prior to construction</p>		
	<p>5. Implement actions.</p>	<p>5 USFWS, CDFG or its contractors</p>	<p>5. Throughout construction</p>		
	<p>6. Monitor construction activities to ensure that the specification requirements are met</p>	<p>6. USFWS, CDFG or its contractors</p>	<p>6 Throughout construction</p>		

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MITIGATION MEASURES	IMPLEMENTATION AND REPORTING ACTIONS	MONITORING RESPONSIBILITY	TIMING	COMPLETION DATE	APPROVED BY
<p>In addition, where feasible and applicable, USFWS and CDFG shall do the following:</p> <ul style="list-style-type: none"> ▪ Establish an activity schedule designed to minimize traffic congestion around the construction site ▪ Periodically inspect construction sites to ensure construction equipment is properly maintained at all times. ▪ Require the use of low sulfur fuel (diesel with 15 parts per million or less) <p>Utilize EPA-registered particulate traps and other appropriate controls to reduce emissions of diesel particulate matter and other pollutants at the construction site.</p>					
<p>SBSP Mitigation Measure 3.14-3b: Health and Safety Plan</p> <p>The landowners and/or its contractors shall prepare a Health and Safety Plan that includes Project-specific monitoring procedures and action levels for dust. The portion of the plan that relates to the control of toxic contaminants contained in fugitive dust shall be prepared in coordination with BAAQMD. The recommendations of BAAQMD to prevent the exposure of sensitive receptors to levels above applicable thresholds (probability of contracting cancer for MEI that exceeds 10 in one million or if ground level concentrations of non-carcinogenic contaminants result in hazard index greater than one for the MEI) shall be implemented. The Health and Safety Plan, applicable to all excavation activities, shall establish policies and procedures to protect workers and the public from potential hazards posed by hazardous materials (including notification procedures to nearby sensitive receptors within 1,000 ft informing them of construction activities that may generate dust containing toxic</p>	<p>1. Prepare a Health and Safety Plan related to the control of toxic contaminants</p>	<p>1. USFWS, CDFG or its contractors</p>	<p>1. Prior to construction</p>		
	<p>2. Incorporate into contractor specifications the requirement to maintain a copy of the plan at the construction site and to implement the plan.</p>	<p>2 USFWS, CDFG or its contractors</p>	<p>2. Prior to construction</p>		
	<p>3. Implement condition</p>	<p>3. USFWS, CDFG or its contractors</p>	<p>3. Throughout construction</p>		
	<p>4. Monitor construction activities to ensure that the specification requirements are met</p>	<p>4 USFWS, CDFG or its contractors</p>	<p>4. Throughout construction</p>		

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Exhibit B: Mitigation Monitoring and Reporting Program Table

MITIGATION MEASURES	IMPLEMENTATION AND REPORTING ACTIONS	MONITORING RESPONSIBILITY	TIMING	COMPLETION DATE	APPROVED BY
contaminants). The plan shall be prepared according to federal and California OSHA regulations. The landowners and/or its contractors shall maintain a copy of the Plan on-site during construction activities.					
3.16 Utilities					
<i>SBSP Impact 3.16-8: Disruption of rail service due to construction of coastal flood levees and tidal habitat restoration.</i>					
SBSP Mitigation Measure 3.16-8: The Landowners shall coordinate with UPRR on the design of the UPRR improvements to ensure that rail service is maintained during construction of flood control and restoration elements in and around Pond A16.	1. Coordinate with UPRR during design of subsequent phases at and around Pond A16	1. USFWS or its contractors	1. During design of Pond A16		
	2. Include records of coordination, including final design of Pond A16 in Administrative Record	2. USFWS	1. Throughout design and implementation of Pond A16		
	3. Provide evidence that design had been completed in Administrative Record	3. USFWS	2. After design has been completed at Pond A16		

MITIGATION MONITORING AND REPORTING PROGRAM

The Mitigation Monitoring and Reporting Program (MMRP) for the SBSP Restoration Project Phase 2 includes the one mitigation measure identified in the SBSP Restoration Project Phase 2 Final EIS/R that would be implemented to reduce adverse environmental impacts to traffic resulting from Phase 2 actions.

As discussed in Chapter 3 of this Final EIS/R, program-level mitigation measures identified in the 2007 SBSP Restoration Project Final EIS/R would reduce impacts associated with the long-term restoration plan and have been incorporated into Phase 2 actions. These program-level mitigation measures, along with Phase 1 mitigation measures, are presented in Chapter 3 of the 2007 SBSP Restoration Project Final EIS/R and are not repeated herein.

Section 3.11 of this SBSP Restoration Project Phase 2 Final EIS/R provides further information regarding the mitigation measure identified for the Phase 2 project. The Executive Summary of this Final EIS/R also summarizes impacts and the one project-level mitigation measure identified in the EIS/R.

Mitigation Monitoring and Reporting Program Table

MITIGATION MEASURE	IMPLEMENTATION AND REPORTING ACTIONS	MONITORING RESPONSIBILITY	TIMING	COMPLETION DATE	APPROVED BY
3.11 Traffic					
<i>Phase 2 Impact 3.11-1: Potential short-term degradation of traffic operations at intersections and streets due to construction.</i>					
<p>Phase 2 Mitigation Measure 3.11-1: Modify Signal Timing The landowner (USFWS) shall coordinate with Caltrans and/or the City of Menlo Park to modify the intersection signal timing in the a.m. to reduce project-related delay to a level that the City does not deem significant.</p>	1. Assess signal timing changes required to maintain adequate intersection LOS	1. USFWS, Caltrans or its contractors	1. Prior to construction		
	2. Caltrans or its contractor implements modifications to signal timing	2. Caltrans or its contractors	2. During construction		
	3. Monitor intersection to ensure adequate LOS	3. USFWS or its contractors	3. Throughout construction		

EXHIBIT D – SOUTH BAY SALT POND RESTORATION PROJECT, PHASE 2

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 amendment of a General Lease – Public Agency Use, to the U.S. Fish and Wildlife Service, for use of sovereign land associated with the proposed South Bay Salt Pond Restoration Project, Phase 2 (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines, § 15381.)¹ The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission 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 Commission is a responsible agency under CEQA for the Project because the Commission must amend a lease for the Project to go forward and because the California Coastal Conservancy (SCC), as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. The SCC analyzed the environmental impacts associated with the Project in a project-level Final Environmental Impact Report (Final Project EIR) (State Clearinghouse [SCH] No. 2013092010) and, in May 2016, certified the EIR and adopted a Mitigation Monitoring Program (MMP) and Findings, and a Statement of Overriding Considerations. This Final Project EIR tiered its analysis from an earlier program EIR, the South Bay Salt Pond Restoration Project (Program EIR) (SCH No. 2004114003)

The Project associated with the lease amendment involves the restoration of Mountain View Slough, with the goals of improving resiliency to sea-level rise along the South Bay's shoreline. The Project will create self-sustaining tidal wetlands, a transition zone for accommodating sea level rise, and uplands that provide valuable habitat for special status species, as well as improve water quality in San Francisco Bay and provide public access for compatible, passive recreation.

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.

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

- Surface Water, Sediment, and Groundwater Quality
- Recreation
- Cultural Resources
- Traffic
- Noise
- Air Quality

Of the six resources areas noted above, Project components within the Commission's jurisdiction could have significant environmental effects on one of the resource areas, as follows:

- Recreation

In certifying the Final Project EIR and approving the Project, the SCC 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 such that the impacts would be less than significant for most resource areas. However, even with the integration of all feasible mitigation, the SCC concluded in the Final Project EIR that some of the identified impacts would remain significant. As a result, the SCC adopted a Statement of Overriding Considerations to support its approval of the Project despite the significant and unavoidable impacts. The SCC determined that, after mitigation, the Project may still have significant impacts on Recreational resources. Because some of these significant impacts may occur on lands under the jurisdiction of the Commission, the Commission also adopts the Statement of Overriding Considerations set forth in this Exhibit D.

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

2.0 ADMINISTRATIVE RECORD OF PROCEEDINGS AND CUSTODIAN OF THE RECORD

These Findings are supported by substantial evidence contained in the Final Project EIR and other relevant information provided to the Commission or existing in its files, all of which is contained in the administrative record. The administrative record is located at the California State Lands Commission, 100 Howe Avenue, Suite 100-South,

Sacramento, CA 95825. The custodian for the administrative record is the California State Lands Commission Division of Environmental Planning and Management.

3.0 FINDINGS

The Commission'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 Final Project EIR certified by the SCC for the Project identifies potentially significant impacts that fall within the scope of the Commission's approval, the Commission makes the Findings set forth below as a responsible agency under CEQA. (State CEQA Guidelines, § 15096, subd. (h); *Riverwatch v. Olivenhain Mun. Water Dist.* (2009) 170 Cal.App.4th 1186, 1202, 1207.

While the Commission must consider the environmental impacts of the Project as set forth in the EIR, the Commission'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 Commission's exercise of discretion involves only amending a General Lease – Public Agency Use for this Project, the Commission is responsible for considering only the environmental impacts related to lands or resources subject to the Commission's jurisdiction. With respect to all other impacts associated with implementation of the Project, the Commission is bound by the legal presumption that the Final Project EIR fully complies with CEQA.

The Commission has reviewed and considered the information contained in the Project EIR. All significant adverse impacts of the Project identified in the Final Project EIR relating to the Commission's approval of an amendment to a General Lease – Public Agency Use, which would allow for the restoration of Mountain View Slough and Ponds A1 and A2W, are included herein and organized according to the resource affected.

These Findings, which reflect the independent judgment of the Commission, 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 Commission. 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 Commission 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 Project 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 Commission finds in these instances 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.)

The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in Exhibit C of the Staff Report.

A. SUMMARY OF FINDINGS

The Program EIR, from which the Final Project EIR tiered its analysis, identified the following impacts as Less Than Significant:

- Hydrology, Flood Management, and Infrastructure
- Geology, Soils and Seismicity
- Biological Resources
- Land Use
- Public Health and Vector Management
- Socioeconomic and Environmental Justice
- Public Services

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

- Utilities
- Aesthetics

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

B. POTENTIALLY SIGNIFICANT IMPACTS

The impacts identified identified in Table 1 were determined in the Program EIR and Final Project EIR to be potentially significant absent mitigation. After application of mitigation, however, several impacts were determined to be less than significant (LTSM). For the full text of each mitigation measure (MM), please refer to Exhibit C, Attachment C-1.

However, even with the integration of all feasible mitigation, the SCC concluded in the Final Project EIR that the other identified potentially significant impacts will remain significant. Table 1 identifies those impacts that the SCC determined would be, after mitigation, significant and unavoidable (SU).

Table 1 – Significant Impacts by Issue Area

Environmental Issue Area	Impact Nos. ³	
	LTSM	SU
Surface Water, Sediment, and Ground Water Quality	3.4-5, 3.4-6	
Recreation		3.6-1, 3.6-5
Cultural Resources	3.8-1, 3.8-2	
Traffic	3.12-3, 3.12-4, 3.11-1	
Noise	3.13-1, 3.13-2, 3.13-4	
Air Quality	3.14-1, 3.14-3	

As a result, the Commission adopts the Statement of Overriding Considerations set forth as part of this Exhibit to support its approval of the Project despite the significant and unavoidable impacts.

C. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION (LTSM)

The impacts identified below were determined in the Final Project EIR to be potentially significant absent mitigation; after application of mitigation, however, the impacts were determined to be less than significant.

³ Recreation impacts 3.6-1 and 3.6-5 are identified in the Final Project EIR and were not included in the Program EIR.

1. Surface Water, Sediment, and Ground Water Quality

CEQA FINDING NO. 3.4-5

Impact: **Impact 3.4-5. Potential impacts to water quality from other contaminants.**

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 impacts to water quality from other contaminants.

Implementation of MM(s) 3.4-5a through 3.4-5f has been incorporated into the Project to reduce this impact to a less than significant level.

MM 3.4-5a: Stormwater Pollution Prevention Plan

MM 3.4-5b: Selenium management

MM 3.4-5c: Actions to minimize illegal discharge and dumping

MM 3.4-5d: Monitoring sediments to follow existing guidance and comply with emerging regulations

MM 3.4-5e: Urban runoff management

MM 3.4-5f: Bacteria monitoring and risk communication

CEQA FINDING NO. 3.4-6

Impact: **Impact 3.4-6. Potential to cause seawater intrusion of regional groundwater sources.**

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 seawater intrusion of regional groundwater sources.

Implementation of MM(s) 3.4-6 has been incorporated into the Project to reduce this impact to a less than significant level.

MM 3.4-6: U.S. Fish and Wildlife Service and California Department of Fish and Wildlife will coordinate with Alameda County Water District

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

2. Cultural Resources

CEQA FINDING NO. 3.8-1

Impact: **Impact 3.8-1. Potential disturbance of known and/or unknown cultural resources.**

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 the potential disturbance of known and/or unknown cultural resources.

Implementation of MM(s) 3.8-1 has been incorporated into the Project to reduce this impact to a less than significant level.

MM 3.8-1: Discovery of unknown resources

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

CEQA FINDING NO. 3.8-2

Impact: **Impact 3.8-2. Disturbance of the historic salt ponds and associated structure which may be considered a significant cultural landscape.**

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 the disturbance of the historic salt ponds and associated structures which may be considered a significant cultural landscape.

Implementation of MM(s) 3.8-2 has been incorporated into the Project to reduce this impact to a less than significant level.

MM 3.8-2: Cultural landscape, inventory of resources, treatment of finds

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

3. Traffic

CEQA FINDING NO. 3.12-3

Impact: **Impact 3.12-3. Potential increase in parking demand.**

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 a potential increase in parking demand.

Implementation of MM(s) 3.12-3 has been incorporated into the Project to reduce this impact to a less than significant level.

MM 3.12-3: Parking at recreational facilities

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

CEQA FINDING NO. 3.12-4

Impact: **Impact 3.12-4. Potential increase in wear and tear on the designated haul routes during 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)

Activities proposed as part of the Project have the potential to result in a potential increase in wear and tear on the designated haul routes during construction.

Implementation of MM(s) 3.12-4 has been incorporated into the Project to reduce this impact to a less than significant level.

MM 3.12-4: Videotape road conditions

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

CEQA FINDING NO. 3.11-1

Impact: **Impact 3.11-1. Potential short-term degradation of traffic operations at intersections and streets due to 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)

Activities proposed as part of the Project have the potential to result in a potential short-term degradation of traffic operations at intersections and streets due to construction.

Implementation of MM(s) 3.11-1 has been incorporated into the Project to reduce this impact to a less than significant level.

MM 3.11-1: Requires the U.S. Fish and Wildlife Service to coordinate with Caltrans and/or the City of Menlo Park to modify the intersection signal timing in the morning to reduce project-related delay to a level that the City does not deem significant

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

4. Noise

CEQA FINDING NO. 3.13-1

Impact: **Impact 3.13-1. Short-term noise effects.**

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 short-term noise effects from construction equipment.

Implementation of MM(s) 3.13-1 has been incorporated into the Project to reduce this impact to a less than significant level.

MM 3.13-1: Short-term construction noise effects

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

CEQA FINDING NO. 3.13-2

Impact: **Impact 3.12-2. Traffic-related noise impacts during 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)

Activities proposed as part of the Project have the potential to result in traffic-related noise impacts during construction.

Implementation of MM(s) 3.13-2 has been incorporated into the Project to reduce this impact to a less than significant level.

MM 3.13-2: Traffic-related noise

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

CEQA FINDING NO. 3.13-4

Impact: **Impact 3.12-4. Potential operational noise effects from pump operation and other operations and maintenance (O&M) 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)

Activities proposed as part of the Project have the potential to result in potential operational noise effects from pump operation and other O&M activities.

Implementation of MM(s) 3.13-4 has been incorporated into the Project to reduce this impact to a less than significant level.

MM 3.13-2: Operation of portable pumps

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

5. Air Quality

CEQA FINDING NO. 3.14-1

Impact: **Impact 3.14-1. Short-term construction-generated air pollutant emissions.**

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 short-term construction-generated air pollutant emissions.

Implementation of MM(s) 3.14-1 has been incorporated into the Project to reduce this impact to a less than significant level.

MM 3.14-1: Short-term construction-generated emissions

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

CEQA FINDING NO. 3.14-3

Impact: **Impact 3.14-3. Potential exposure of sensitive receptors to toxic air contaminant emissions.**

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 the potential exposure of sensitive receptors to toxic air contaminant emissions.

Implementation of MM(s) 3.14-3a and 3.14-3b has been incorporated into the Project to reduce this impact to a less than significant level.

MM 3.14-3a: Toxic air contaminant emissions from construction within 500 feet (152 meters) of sensitive receptors

MM 3.14-3b. Health and Safety Plan

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

D. SIGNIFICANT AND UNAVOIDABLE IMPACTS

The following impacts were determined in the Final Project 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.)

6. Recreation

CEQA FINDING NO. 3.6-1

Impact: **Impact 3.6-1. Provision of new public access and recreation facilities, including the opening of new areas for recreational purposes and the completion of the Bay Trail spine.**

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)

Activities proposed as part of the Project have the potential to result in a potentially significant impact to recreation because they may not meet the project significance threshold of providing “maximum feasible public access” under Bay Conservation and Development Commission (BCDC) policy. While the project proposes to add several new public access and recreation features, others had to be removed from the project due to concerns over impact on sensitive wildlife species.

The Final Project EIR did not set forth mitigation measures to reduce the severity of Impact 3.6-1. Such mitigation measures are infeasible because they could result in impacts to sensitive wildlife species.

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

CEQA FINDING NO. 3.6-5

Impact: **Impact 3.6-5. Result in the temporary construction-related closure of adjacent public parks or other recreational facilities, making such facilities unavailable for public use.**

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)

Activities proposed as part of the Project that have the potential to result in the temporary construction-related closure of adjacent public parks or other recreational facilities, making such facilities unavailable for public use.

The Program EIR and Final Project EIR did not set forth mitigation measures to reduce the severity of Impact 3.6-5. Such mitigation measures are infeasible for public safety reasons: materials and equipment must be transported through existing city parks to reach the project ponds themselves, and the public must be excluded to protect the safety of park and trail users during these intermittent periods of material import (via haul trucks) and use of those same trails by construction crews. Typical construction best management practices, such as traffic control plans and other safety measures, will be implemented during construction, but this impact cannot be mitigated to a less than significant level, as there will necessarily be trail closures and/or detours. Although the impact will be temporary, it will be significant and unavoidable during construction.

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

E. FINDINGS ON 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 four alternatives analyzed in the Final Project EIR represent a reasonable range of potentially feasible alternatives that could reduce one or more significant impacts of the Project. These Phase 2 Project alternatives were tiered from a programmatic alternatives analysis conducted for the 2007 Program EIR.⁴ The project alternatives include:⁵

- 1) Project Alternative A (No Action)
- 2) Project Alternative Mountain View B (include Charleston Slough)

⁴ For a summary of the alternative analysis and the relationship between the Program EIR alternatives and the Final Project EIR alternatives, see pp. 17-18 of the SCC Staff Recommendation (May 26, 2016), available at http://scc.ca.gov/webmaster/ftp/pdf/sccbb/2016/1605/20160526Board17_SBSP_Phase_2.pdf

⁵ See Table 6-2 in Chapter 6 of the Final Project EIR (pp. 6-9 to 6-10) for details of these alternatives.

- 3) Project Alternative Mountain View C (exclude Charleston Slough)
- 4) Preferred Mountain View Alternative (excludes Charleston Slough and combines elements of Mountain View B and C alternatives)

As presented in the Final Project EIR, the alternatives were described and compared with each other, and elements of the Mountain View B and C alternatives were blended to formulate the Preferred Alternative (see discussion in pp. 6-7 through 6-9 of the Final Project EIR). The Preferred Alternative uses Mountain View B features to avoid potential effects on steelhead and other estuarine fish, and adds selected public access features described in Mountain View C.

Under State CEQA Guidelines section 15126.6, subdivision (e)(2), if the No Project Alternative is identified as the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. However, the Final Project EIR did not identify the No Project Alternative as the environmentally superior alternative because it would have a greater magnitude of significant and unavoidable impacts on recreation than the project's action alternatives. Based on the analysis contained in the EIR, the Final Project EIR identified the Preferred Alternative as the environmentally superior alternative. No one alternative, not even the No Project Alternative, would avoid significant and adverse impacts.⁶

The SCC independently reviewed and considered the information on alternatives provided in the Final Project EIR and in the record. The Final Project EIR reflects the SCC's independent judgment as to alternatives. The SCC found that the Preferred Alternative provides the best balance between the Project goals and objectives and the Project's benefits. The SCC's Findings Regarding Alternatives found that the alternatives that have fewer significant effects than the Preferred Alternative are infeasible in that they do not achieve the Project objectives of habitat restoration, wildlife oriented public access, and flood protection or will not produce the same environmental benefit as the Preferred Alternative. The three non-selected CEQA alternatives for the Mountain View ponds portion of the project that were proposed and evaluated were rejected as being infeasible for the following reasons described in the EIR

- 1) **Project Alternative A (No Action).** Under the No Action alternative, the project would not occur, and no new Phase 2 activities of the Program would be implemented in the Mountain View ponds. The U.S. Fish and Wildlife Service (USFWS) would continue to operate and maintain the ponds as part of the Don Edwards San Francisco Bay National Wildlife Refuge System, following the Adaptive Management Plan and current USFWS management practices. No new public access or recreational facilities were proposed under this alternative, although existing trails on the levees along the boundary of the pond cluster would continue to be maintained. Project Alternative A would have a greater magnitude significant and unavoidable impact on recreation than the Preferred Alternative and other alternatives.⁷

⁶ See the Final Project EIR Chapter 6, Section 6.3.

⁷ Through failure to provide maximum possible new public access features. See Final Project EIR, p. 6-35.

- 2) **Project Alternative Mountain View B (include Charleston Slough).** Under this alternative, the Pond A1 and Pond A2W levees would be breached at several points to introduce tidal flow in the ponds. Habitat transition zones and habitat islands would be constructed in the ponds to increase habitat complexity and quality for special-status species. A new trail and viewing platform would be installed to improve recreation and public access at these ponds. Upland fill material would be imported into the ponds to raise levees, construct habitat islands, or build habitat transition zones. This alternative has similar significant effects to the Preferred Alternative, but does not include as many public access components and so would not produce the same environmental benefit as the Preferred Alternative.
- 3) **Project Alternative Mountain View C (exclude Charleston Slough).** Under this alternative, levees would be breached and lowered to increase tidal flows in Pond A1, Pond A2W, and Charleston Slough. The inclusion of Charleston Slough in the project is the primary distinguishing feature between Alternative Mountain View C and Alternative Mountain View B. Other actions would include adding habitat transition zones, habitat islands, and allowing for possible future connectivity with two brackish marshes south (inland) of Pond A2W. These proposed activities are intended to increase habitat complexity and quality for special-status species. Several new trails and viewing platforms would be installed or replaced to improve recreation and public access at the pond cluster. Regarding impacts, this alternative could generate a significant impact to steelhead and other estuarine fish without a fish screen in place at the new water intake location. However, the limited area available for the water intake would be inadequate to provide adequate flows to the existing Shoreline Park sailing lake, and would entail a very high initial capital cost and ongoing operations and maintenance costs. These technical, logistical, regulatory, and financial obstacles render this alternative infeasible.

Based upon the objectives identified in the Final Project EIR and the detailed mitigation measures imposed upon the Project, the Commission 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.

4.0 STATEMENT OF OVERRIDING CONSIDERATIONS

A. INTRODUCTION

This section addresses the Commission'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 Commission to balance, as applicable, the economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the Lease amendment approval related to the South Bay Salt Pond Restoration Project, Phase 2 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 Commission from approving the Lease amendment even if the Project activities as authorized under the Lease amendment 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 SCC and Commission 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 fall under one resource area: Recreation (see Table 2). These impacts are] specifically identified and discussed in more detail in the Commission’s CEQA Findings and in SCC’s Final Project EIR. While the Commission has required all feasible mitigation measures, these impacts remains significant for purposes of adopting this Statement of Overriding Considerations.

Table 2 – Significant and Unavoidable Impacts Identified for the Approved Project

Impact	Impact Description
Recreation	
<p>Impact 3.6-1. Provision of new public access and recreation facilities, including the opening of new areas for recreational purposes and the completion of the Bay Trail spine</p>	<p>Provision of new public access and recreation facilities, including the opening of new areas for recreational purposes and the completion of the Bay Trail spine.</p>
<p>Impact 3.6-5. Result in the temporary construction-related closure of adjacent public parks or other recreational facilities, making such facilities unavailable for public use.</p>	<p>Project activities have the potential to result in a recreation-based impact on sensitive wildlife species due to the creation of several new public access and recreation features. As a the the Project may result in the temporary construction-related closure of adjacent public parks or other recreational facilities, making such facilities unavailable for public use.</p>

B. BALANCING OF BENEFITS AND RISKS ASSOCIATED WITH LEASE AMENDMENT APPROVAL

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.

C. COMMISSION ADOPTION OF STATEMENT OF OVERRIDING CONSIDERATIONS

As noted above, under Public Resources Code section 21081, subdivisions (a)(3) and (b) and State CEQA Guidelines section 15093, subdivision (a), the decision-making agency is required to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or state-wide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve a project.

For purposes of CEQA, if these benefits outweigh the unavoidable significant environmental effects of a proposed project, the decision-making agency may approve the underlying project. CEQA, in this respect, does not prohibit the Commission from approving the Project, even if the activities authorized by that approval may cause significant and unavoidable environmental effects. This balancing is particularly difficult given the significant and unavoidable impacts on the resources discussed in the EIR and these Findings. Nevertheless, the Commission finds, as set forth below, that the benefits anticipated by implementing the Project outweigh and override the expected significant effects.

The Commission has balanced the benefits of the Project against the significant unavoidable impacts that will remain after approval of the lease amendment associated with the Approved Project and with implementation of all feasible mitigation in the EIR that is adopted as enforceable conditions of the Commission's approval of the Project. Based on all available information, the Commission finds that the benefits of the approved Project outweigh the significant and unavoidable adverse environmental effects, and considers such effects acceptable. The Commission adopts and makes this Statement of Overriding Considerations with respect to the impacts identified in the EIR and these Findings that cannot be reduced to a less than significant level. Each benefit set forth above or described below constitutes an overriding consideration warranting approval of the project, independent of the other benefits, despite each and every significant unavoidable impact.

D. CONCLUSION

The Commission has considered the Final Project 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 land.

Based on the foregoing and pursuant to Public Resources Code section 21081 and State CEQA Guidelines sections 15096 subdivision (h) and 15093, the Commission 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 significant and 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. The Commission finds that the remaining significant unavoidable impacts of the Project are acceptable in light of these benefits. 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 Commission finds that to the extent that any impacts identified in the Final Project 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 Commission finds that the benefits of the Project outweigh the significant unavoidable impacts that could remain after mitigation is applied and considers such impacts acceptable.