

**CALENDAR ITEM
C08**

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08/09/16
PRC 5292.9
M. Schroeder

**TERMINATION OF A PUBLIC AGENCY PERMIT AND ISSUANCE
OF A GENERAL LEASE – PUBLIC AGENCY USE**

LESSEE/APPLICANT:

Linda County Water District

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Filled sovereign land in the historic bed of the Feather River, adjacent to 909 Myrna Avenue, near Olivehurst, Sutter and Yuba Counties.

AUTHORIZED USE:

Continued use, operation and maintenance of an existing 18-inch-diameter effluent pipeline, a 30-inch-diameter effluent pipeline evaporation/percolation pond, inlet effluent pipeline to evaporation/percolation pond, and roads; construction use and maintenance of a new 30-inch-diameter effluent pipeline replacing the existing 18-inch-diameter effluent pipeline and a 14-inch-diameter temporary bypass effluent pipeline.

LEASE TERM:

25 years, beginning August 9, 2016.

CONSIDERATION:

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

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

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Public Trust and State's Best Interests:

Linda County Water District (District) owns and operates a wastewater collection, treatment, and disposal system, and provides sewage service to approximately 10,000 people through about 3,000 connections in the unincorporated area of Linda in Yuba County. On May 26, 1977, the Commission authorized a Public Agency Permit, PRC 5292.9, to the District for use, operation and maintenance of a sewage treatment plant, effluent pipeline and roads. That lease will expire on December 31, 2025. The District has requested termination of the lease. The Applicant owns the upland adjoining the lease premises and is now applying for a General Lease – Public Agency Use.

The District is proposing to upgrade and expand its wastewater treatment capacity at the Regional wastewater treatment facilities (Linda County WWTF) from 1.8 to 5.0 million gallons per day. The proposed project includes replacing the existing 18-inch-diameter effluent pipeline with a 30-inch-diameter effluent pipeline. The replacement of an existing 30-inch-diameter effluent pipeline with a 30-inch-diameter effluent pipeline and an outfall to discharge treated wastewater to the Feather River is also part of the project, but is not within the Commission's jurisdiction. An analysis conducted by the Commission's Boundary staff determined the sewage treatment plant is not within the Commission's jurisdiction. The lease premise consists of filled sovereign land within the bed of the historic Feather River. The bed of the existing Feather River at this location is not within the Commission's jurisdiction. As part of the project, a 14-inch-diameter temporary bypass effluent pipeline will be installed on the surface of the land, parallel to the existing pipeline, and extend to the Feather River. The temporary bypass pipeline will allow the Linda County WWTF to operate while work is being completed on the existing pipeline. Upon completion of the project, the temporary bypass pipeline will be removed. To ensure the integrity of the pipeline, inspections of the pipeline are required.

The City of Marysville (City) is proposing to cease operation of its existing wastewater treatment plant (Marysville WWTP) and instead convey City wastewater to the Linda County WWTF located approximately 3 miles south of the Marysville WWTP. Permit No. PRC 5543.9, which will expire on June 30, 2027, was issued to the City authorizing use, operation and maintenance of sewage treatment facilities and evaporation/percolation ponds. After issuance of the permit a 24-inch-diameter effluent pipeline crossing beneath the bed of the Yuba River was constructed outside the Commission's jurisdiction. The City requested termination of the permit. An application by the City under Lease No. PRC 5543.9 is also before the

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Commission at the August 9, 2016, meeting for the sewage treatment facilities and evaporation/percolation ponds.

The effluent pipeline, temporary bypass effluent pipeline, evaporation/percolation pond, inlet effluent pipeline to the evaporation/percolation pond, and roads are not generally associated with traditional Public Trust uses. However, the facilities do not significantly interfere with Public Trust activities. The effluent pipeline is buried under a small section of filled sovereign land within the historic bed of the river. The evaporation/percolation pond and inlet effluent pipeline to the evaporation/percolation pond also occupy a small section of filled sovereign land within the historic bed of the river. The filled sovereign land is no longer useable for waterborne Public Trust purposes.

The subject facilities have existed for many years at this location. The subject facilities do not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. The lease is limited to a 25-year term and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

For the reasons stated above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 2.1 of the Commission's Strategic Plan, to optimize returns for the responsible development and use of State lands and resources, both onshore and offshore.
2. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

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

3. A Mitigated Negative Declaration (MND), State Clearinghouse No. 2012122018, was prepared for the Project by the City and adopted on February 19, 2013. On April 19, 2016, the City adopted an Addendum to

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the MND. Commission staff has reviewed these documents prepared pursuant to the provisions of CEQA (Pub. Resources Code, § 21081.6).

4. A Mitigation Monitoring Program was adopted by the City.
5. 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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS REQUIRED:

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

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Mitigation Monitoring Program

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2012122018, and a Mitigation Monitoring Program were prepared by the City of Marysville and adopted on February 19, 2013, and an Addendum was adopted by the City of Marysville on April 19, 2016, for this Project, and that Commission staff has reviewed and considered the information contained therein.

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease for the existing pipeline, replacement pipeline, evaporation/percolation pond, inlet pipeline to the

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evaporation/percolation pond, and roads will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location at this time, is consistent with the common law Public Trust doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

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

AUTHORIZATION:

1. Authorize termination, effective August 8, 2016, of Lease No. PRC 5292.9, a Public Agency Permit, issued to Linda County Water District.

2. Authorize issuance of a General Lease – Public Agency Use to the Linda County Water District beginning August 9, 2016, for a term of 25 years, for the continued use, operation and maintenance of an existing 18-inch-diameter effluent pipeline, a 30-inch-diameter effluent pipeline, evaporation/percolation pond, inlet effluent pipeline to evaporation/percolation pond, and roads; construction, use, and maintenance of a new 30-inch diameter effluent pipeline replacing the existing 18-inch-diameter effluent pipeline and a 14-inch-diameter temporary bypass effluent pipeline as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right, at any time, to set a monetary rent as specified in the lease if the Commission finds such action to be in the State's best interest.

EXHIBIT A

PRC 5292.9

LAND DESCRIPTION

A parcel of land in the bed of the last natural channel of the Feather River, lying adjacent to the New Helvetia Rancho, situated in the Counties of Yuba and Sutter, State of California, said parcel more particularly described as follows:

COMMENCING at a concrete monument marking the N.E. corner of Lot 10, of the Farm Land Colony No. 1 as shown on the map filed in Book 1 of Maps, page 23, Yuba County Records, from which a concrete monument marking the N.E. corner of Lot 9, of said Farm Land Colony No. 1 bears N 89° 07' E, 1320 feet more or less; thence from said point of commencement S 38° 54' 14" W, 1845.45 feet to a point on the line of the parcel described in the Decree of Quiet Title recorded in Book 575, page 97, Sutter County Records; and the POINT OF BEGINNING; thence westerly along said line N 53° 38' 00" W, 550.00'; thence N 85° 02' 00" W, 380.40 feet; thence S 68° 29' 00" W, 200 feet more or less, to the Official Meander line of the right bank of the Feather River, as noted on the field notes of the "Final Survey of the Rancho Helvitia" by A. W. Von Schmidt, 1859; thence southerly along said meander line, 3850 feet more or less to the easterly prolongation of the northerly line of the Hauss Tract as shown on that map entitled "Hauss Tract, T14N, R3E, MDB&M", filed June 1, 1914 in Book 3 of Surveys, page 8, Sutter County Records; thence easterly along said easterly prolongation N 85° 36' 53" E, 780 feet more or less to the westerly line of the east levee of the Feather River as described in the Deed recorded in Book 61 of Official Records, page 76, Yuba County Records; thence northerly along said westerly line N 01° 40' 54" W, 96.69 feet; thence N 06° 07' 54" W, 298.68 feet; thence N 02° 43' 54" W, 333.33 feet; thence N 13° 15' 54" W, 652.39 feet; thence N 14° 24' 54" W, 493.50 feet; thence N 14° 10' 54" W, 497.13 feet; thence N 03° 27' 54" W, 525.90 feet; thence N 07° 31' 54" W, 98.85 feet; thence N 07° 27' 06" E, 208.72 feet; thence N 04° 32' 54" W, 200.61 feet; N 03° 27' 06" E, 26.84 feet, more or less to the southerly line of the land described in the Deed recorded in Book 480 of

Official Records, page 254, Yuba County Records; thence leaving the westerly line and along said southerly line S 63° 43' 00" W, 186.61 feet; thence N 53° 38' 00" W, 114.90 feet to the point of beginning.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Feather River.

The basis of bearings for the above description is the North line of Lot 9, Farm Land Colony No. 1 filed in Book 1 of Maps, page 23, Yuba County Records.

END OF DESCRIPTION

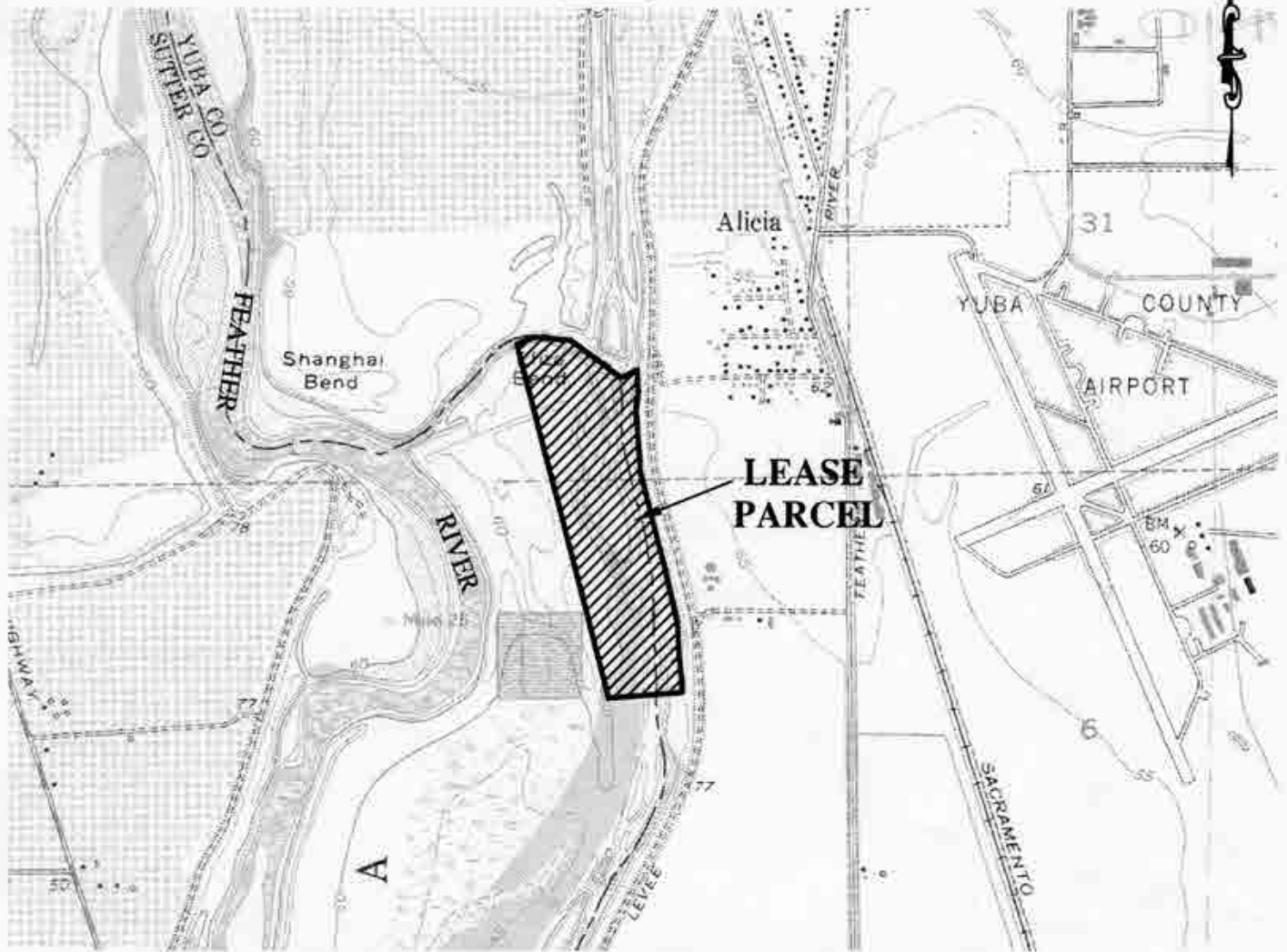
Prepared M. J. Shaf Checked R. N. Hoff

Reviewed J. J. Runnecke Date 2/28/77

JJB

NO SCALE

SITE



NEAR 909 MYRNA AVENUE, OLIVEHURST

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 5292.9
 LINDA COUNTY WATER DISTRICT
 APN 023-040-043
 GENERAL LEASE - PUBLIC AGENCY USE
 YUBA & SUTTER 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.

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
MARYSVILLE WASTEWATER TREATMENT COMPLIANCE
(PRC 5292, State Clearinghouse No. 2012122018)

The California State Lands Commission (Commission) is a responsible agency under the California Environmental Quality Act (CEQA) for the Marysville Wastewater Treatment Compliance Project (Project). The CEQA lead agency for the Project is the City of Marysville.

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

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

The lead agency has adopted an MND, State Clearinghouse No. 2012122018, and adopted a MMP for the whole of the Project (see Exhibit C, Attachment C-1) and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The 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 Attachment C-1, is incorporated by reference in this Exhibit C. Any mitigation measures adopted by the Commission that differ substantially from those adopted by the lead agency are shown as follows:

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

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 ²	Difference Between CSLC MMP and Lead Agency MMP
Air Quality:	Construction Emissions	AIR-1	None
Biological Resources:	Sensitive Bird Species	BIO-3	None
	Valley Elderberry Shrubs	BIO-4	None
	Habitat/Ground Disturbance	BIO-5	None
	Riparian Habitat/Oak Tress	BIO-6	None
	Sensitive Tree Resources	BIO-8	None
Cultural Resources:	Discovery of cultural resources	CUL-1	See below
	Discovery of human remains	CUL-2	None
Geology:	Expansive Soils	GEO-1	None
Hazards:	Contaminated Soil/Groundwater	HM-1	None
	Fire Hazard	HM-2	None
Hydrology:	Drainage Management	HYD-1	None
Noise:	Construction Noise	NOISE-1	None

Add to CUL-1: The final disposition of archaeological resources recovered on State lands under the jurisdiction of the State Lands Commission must be approved by the Commission.

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

ATTACHMENT C-1

**Mitigation Monitoring Program Adopted by the
City of Marysville**

MITIGATION MONITORING AND REPORTING PROGRAM

Impact	Mitigation Measure	Implementation Responsibility	Monitoring/Reporting Responsibility	Timing
Aesthetics	No Mitigation Warranted	N/A	N/A	N/A
Agricultural and Forest Resources	No Mitigation Warranted	N/A	N/A	N/A
Air Quality	<p>Measure AIR-1: During construction activities, the City shall require the construction contractor(s) to implement the following FRAQMD Standard Mitigation Measures:</p> <ul style="list-style-type: none"> • Implement the FRAQMD Fugitive Dust Control Plan which may be downloaded at www.fraqmd.org/CEQA/Fugitive%20dust%20control%20plan.pdf. Specific measures that may be implemented, as relevant, include the following: <ul style="list-style-type: none"> ○ All grading operations on a project should be suspended when winds exceed 20 miles per hour or when winds carry dust beyond the property line despite implementation of all feasible dust control measures. ○ Construction sites shall be watered as directed by the Department of Public Works or Air Quality Management District and as necessary to prevent fugitive dust violations. ○ An operational water truck should be onsite at all times. Apply water to control dust as needed to prevent visible emissions violations and offsite dust impacts. ○ Onsite dirt piles or other stockpiled particulate matter should be covered, wind breaks installed, and water and/or soil stabilizers employed to reduce windblown dust emissions. Incorporate the use of approved non-toxic soil stabilizers according to manufacturer's specifications to all inactive construction areas. ○ All transfer processes involving a free fall of soil or other particulate matter shall be operated in such a manner as to minimize the free fall distance and fugitive dust emissions. ○ Apply approved chemical soil stabilizers according to the manufacturers' specifications, to all inactive construction areas (previously graded areas that remain inactive for 96 hours) including unpaved roads and employee/equipment parking areas. ○ To prevent track-out, wheel washers should be installed where project vehicles and/or equipment exit onto paved streets from unpaved roads. Vehicles and/or equipment shall be washed prior to each trip. Alternatively, a gravel 	Contractor	Construction Inspector	During construction

MITIGATION MONITORING AND REPORTING PROGRAM

Impact	Mitigation Measure	Implementation Responsibility	Monitoring/Reporting Responsibility	Timing
	<p>bed may be installed as appropriate at vehicle/equipment site exit points to effectively remove soil buildup on tires and tracks to prevent/diminish track-out.</p> <ul style="list-style-type: none"> o Paved streets shall be swept frequently (water sweeper with reclaimed water recommended; wet broom) if soil material has been carried onto adjacent paved, public thoroughfares from the project site. o Provide temporary traffic control as needed during all phases of construction to improve traffic flow, as warranted, to reduce vehicle dust emissions. An effective measure is to enforce vehicle traffic speeds at or below 15 mph. o Reduce traffic speeds on all unpaved surfaces to 15 miles per hour or less and reduce unnecessary vehicle traffic by restricting access. Provide appropriate training, onsite enforcement, and signage. <ul style="list-style-type: none"> • Construction equipment exhaust emissions shall not exceed FRAQMD Regulation III, Rule 3.0, Visible Emissions limitations (40 percent opacity or Ringelmann 2.0). • The contractor shall be responsible to ensure that all construction equipment is properly tuned and maintained. • Minimize idling time to 5-minutes. • Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators. • Develop a traffic plan to minimize traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites. • Portable engines and portable engine-driven equipment units used at the Project work site, with the exception of on-road and off-road motor vehicles, may require California Air Resources Board (ARB) Portable Equipment Registration with the State or a local district permit. The owner/operator shall be responsible for arranging appropriate consultations with the ARB or the District to determine registration and permitting requirements prior to equipment operation at the site. 			

MITIGATION MONITORING AND REPORTING PROGRAM

Impact	Mitigation Measure	Implementation Responsibility	Monitoring/Reporting Responsibility	Timing
Biological Resources	<p>Measure BIO-1: The following measures will be implemented in order to reduce Project effects to special status fish species:</p> <ul style="list-style-type: none"> • Installation of the cofferdam is necessary for construction of the outfall structure and is expected to result in short-term increases in local suspended sediment concentrations that may affect the distribution and behavior of sensitive fish species and their habitat. To avoid and minimize these impacts, site preparation and installation of the sheet pile cofferdam will occur from June 1 to October 1 (but may be extended to November 1 with approval by NMFS). This is a period of the year when NMFS' Endangered Species Act (ESA) listed species are least likely to occur in the Project area. • All fueling and maintenance of vehicles and other equipment, and staging areas, will be located at least 20 meters from the drainage. Prior to the onset of work, the qualified biologist will ensure that the applicant has prepared a plan to allow for a prompt and effective response to any accidental spills into the drainage. All workers will be informed of the importance of preventing spills and the appropriate measures to take should a spill occur. • Implementation of a SWPPP and erosion control measures, as well as BMPs for construction activities, would reduce potential impacts to special-status fisheries and other aquatic species and habitat resulting from sedimentation and turbidity. Specific measures aimed at protecting fisheries resources include: <ul style="list-style-type: none"> ○ Sediment curtains will be placed around the construction or maintenance zone to prevent sediment disturbed during excavation activities from being transported and deposited outside of the construction zone. ○ Silt fencing will be installed in all areas where construction occurs within 100 feet of known or potential steelhead habitat. ○ Spoil sites (concrete wash areas) will be located so they do not drain directly into the Yuba River or Feather River. If a spoil site has the potential to drain into any of these waterways, catch basins will be constructed to intercept sediment before it reaches the channel. Spoil sites will be graded to reduce the potential for erosion. • Prior to dewatering, the Project proponent will ensure that a qualified fisheries biologist will design and conduct a fish and wildlife rescue and relocation effort to collect fish and other 	Contractor	City and Contractor	Prior to and during construction

MITIGATION MONITORING AND REPORTING PROGRAM

Impact	Mitigation Measure	Implementation Responsibility	Monitoring/Reporting Responsibility	Timing
	<p>wildlife species from the area within the cofferdam involving the capture and return of those animals to suitable habitat within the Feather River. To ensure compliance, a fisheries biologist will provide observation during initial dewatering activities within the cofferdam. The fish rescue plan will be approved by NMFS, USFWS, and DFG prior to cofferdam installation and dewatering.</p> <ul style="list-style-type: none"> • An approved biologist will permanently remove, from within the Project site, any exotic wildlife species, such as bullfrogs and crayfish, to the extent possible. • After construction activities are finalized, the stream channel will be restored to preconstruction conditions. • Purchase rearing habitat credits at a 3:1 ratio for the placement of bank stabilization materials within the action area at a NMFS approved anadromous fish conservation bank. • If gabion mats or other bank stabilization methods are placed on the stream bank, use a soil-rock mixture to facilitate re-vegetation of the Project area. A ratio of rock to soil (70:30) is recommended. NMFS suggests a soil-rock mixture on top of the rock revetment to allow native riparian vegetation to be planted to ensure shaded riverine aquatic (SRA) habitat is replaced. 			
	<p>Measure BIO-2: Perform Pre-construction Surveys for Western Pond Turtle. No more than two weeks prior to the commencement of ground-disturbing activities, the applicant will retain a qualified biologist to perform surveys for northwestern pond turtle within suitable aquatic and upland habitat on the Project site. Surveys will include northwestern pond turtle nests as well as individuals. The biologist (with the appropriate agency permits) will temporarily move any identified northwestern pond turtles upstream of the construction site, and temporary barriers will be placed around the construction site to prevent ingress. Construction will not proceed until the work area is determined to be free of turtles and their nests. The biologist will be responsible for moving adult turtles that enter the construction zone after construction has begun. If a nest is located within a work area, the biologist (with the appropriate permits from the CDFG) may move the eggs to a suitable facility for incubation, and release hatchlings into the creek system in late fall. The biologist will be present on the Project site during initial ground clearing and grading, construction, and post-construction grading activities adjacent to drainages with</p>	City and Qualified Biologist	City and Qualified Biologist	Prior to and during construction

MITIGATION MONITORING AND REPORTING PROGRAM

Impact	Mitigation Measure	Implementation Responsibility	Monitoring/Reporting Responsibility	Timing
	<p>the potential to support northwestern pond turtle.</p> <p>The results of these surveys will be documented in a technical memorandum that will be submitted to the California Department of Fish and Game (if turtles are documented) and/or the City of Marysville.</p>			
	<p>Measure BIO-3:</p> <p>Avoid Active Nesting Season. To avoid and minimize impacts to tree and shrub nesting species, the following measures shall be implemented;</p> <p>If feasible, conduct all tree and shrub removal and grading activities during the non-breeding season (generally September 1 through January 31).</p> <p>If grading and tree removal activities are scheduled to occur during the breeding and nesting season (February 1 through August 31), pre-construction surveys will be performed prior to the start of Project activities.</p> <p>Conduct Pre-construction Nesting Bird Surveys. If construction, grading or other Project-related activities are scheduled during the nesting season (February 1 to August 31), pre-construction surveys shall be conducted by a qualified wildlife biologist to identify active Swainson's hawk and other raptor nests within ½-mile of proposed construction activities, and nests of other species within 250 feet of proposed construction activities. The surveys would be conducted no more than 15 days prior to the onset of ground disturbance or vegetation removal. During project implementation and within the nesting season, if construction should halt for more than 15 days, an additional survey for active raptor nests shall be conducted. The results of the survey would be emailed to CDFG at least three days prior to construction. Surveys would be conducted by a qualified biologist in accordance with the following protocols:</p> <ul style="list-style-type: none"> • For Swainson's hawk surveys, guidelines provided in the Recommended Timing and Methodology for Swainson's Hawk Nesting Survey in the Central Valley (Swainson's Hawk Technical Advisory Committee 2000) would be followed where possible. • Surveys for white-tailed kite and other nesting raptors would include at least two preconstruction surveys (separated by at least two weeks). Surveys for other migratory bird species would take place no less than 14 days and no more than 30 days prior to the beginning of construction within 250 feet of suitable nesting habitat. <p>If the pre-construction surveys do not identify any nesting raptors or</p>	City and Qualified Biologist	City and Qualified Biologist	Prior to and during construction

MITIGATION MONITORING AND REPORTING PROGRAM

Impact	Mitigation Measure	Implementation Responsibility	Monitoring/Reporting Responsibility	Timing
	<p>other nesting migratory bird species within areas potentially affected by construction activities, no further mitigation would be required. If the pre-construction surveys do identify nesting raptors or other nesting bird species within areas that may be affected by site construction, the following measures would be implemented.</p> <p>Avoid Active Bird Nest Sites.</p> <p>Should active nest sites be discovered within areas that may be affected by construction activities, additional measures would be implemented as described below.</p> <p>Swainson's Hawk: If active nests are found, CDFG would be notified and Project-related construction impacts would be avoided by establishment of appropriate no-work buffers to limit Project-related construction activities near the nest site. The size of the no-work buffer zone would be determined in consultation with the CDFG, although a ¼ mile buffer would be used when possible. The no-work buffer zone would be delineated by highly visible temporary construction fencing. In consultation with CDFG, monitoring of nest activity by a qualified biologist may be required if the Project-related construction activity has potential to adversely affect the nest or nesting behavior of the bird(s). No Project-related construction activity would commence within the no-work buffer area until a qualified biologist and CDFG confirms that the nest is no longer active.</p> <p>White-Tailed Kite and other Migratory Birds: If active nests are found, Project-related construction impacts would be avoided by establishment of appropriate no-work buffers to limit Project-related construction activities near the nest site. The size of the no-work buffer zone would be determined in consultation with the CDFG although a 500-foot buffer would be used when possible. The no-work buffer zone would be delineated by highly visible temporary construction fencing. In consultation with CDFG, monitoring of nest activity by a qualified biologist may be required if the Project-related construction activity has potential to adversely affect the nest or nesting behavior of the bird. No Project-related construction activity would commence within the no-work buffer area until a qualified biologist and CDFG confirms that the nest is no longer active. Surveys for western yellow-billed cuckoo would be conducted in accordance with the <i>Yellow-Billed Cuckoo (Coccyzus americanus): A Technical Conservation Assessment</i> (Wiggins 2005) which recommends four separate surveys during the nesting season (15 June to 10 August).</p> <p>Additional Avoidance Measures: Should construction activities cause the nesting migratory bird or raptor to vocalize, make</p>			

MITIGATION MONITORING AND REPORTING PROGRAM

Impact	Mitigation Measure	Implementation Responsibility	Monitoring/Reporting Responsibility	Timing
	<p>defensive flights at intruders, get up from a brooding position, or fly off the nest, then exclusionary buffers will be increased such that activities are far enough from the nest to stop agitated behavior by the migratory bird or raptor. The exclusionary buffer would remain in place until the chicks have fledged or as otherwise determined by a qualified biologist.</p>			
	<p>Measure BIO-4: Mitigate for Impacts to VELB and its Habitat. The Project site was surveyed for the presence of the beetle and its elderberry host plant, by a qualified biologist in accordance with USFWS protocols, on July 19, 2012. Approximately 140 elderberry plants with one or more stems measuring 1.0 inch or greater in diameter at ground level, occur on or adjacent to the Project site, or are otherwise located where they may be directly or indirectly affected by construction activities, minimization and compensation measures, which include transplanting existing shrubs and planting replacement habitat (conservation plantings), are required (see below). Surveys are valid for a period of two years. Elderberry plants with no stems measuring 1.0 inch or greater in diameter at ground level are unlikely to be habitat for the beetle because of their small size and/or immaturity. Therefore, no minimization measures are required for removal of elderberry plants with all stems measuring 1.0 inch or less in diameter at ground level.</p> <p>For shrubs with stems measuring 1.0 inch or greater, the Project proponent would ensure that elderberry shrubs within 100 feet of proposed development be protected and/or compensated for in accordance with the <i>U.S. Fish and Wildlife Services' (USFWS) Conservation Guidelines for the Valley Elderberry Longhorn Beetle</i> (USFWS, 1999) and the <i>Programmatic Formal Consultation Permitting Projects with Relatively Small Effects on the Valley Elderberry Longhorn Beetle Within the Jurisdiction of the Sacramento Field Office</i> (USFWS, 1996b).</p>	City and Qualified Biologist	City and Qualified Biologist	Prior to construction
	<p>Measure BIO-5: The pipeline will be installed within previously disturbed areas of the easement to the extent feasible. During construction, previously undisturbed areas within the pipeline alignment that are not needed for construction will be staked and flagged to prevent construction equipment access or disturbance in these areas. The cordoned off areas will be flagged and monitored by a qualified biologist during construction activities.</p>	City and Qualified Biologist	City and Qualified Biologist	During construction
	<p>Measure BIO-6: The following measures will avoid or minimize potential construction-related impacts to riparian habitat and oaks:</p> <ul style="list-style-type: none"> • Prior to removal of any trees, an ISA Certified Arborist will 	City and Certified Arborist	City and Certified Arborist	During construction

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	<p>conduct a tree survey in areas that may be impacted by construction activities. This survey will document tree resources that may be adversely impacted by implementation of the proposed Project. The survey will follow standard professional practices.</p> <ul style="list-style-type: none"> • Current riparian vegetation and oaks will be retained to extent feasible. A Tree Protection Zone (TPZ) will be established around any tree or group of trees to be retained. The TPZ will be delineated by an ISA Certified Arborist. The TPZ will be defined by the radius of the dripline of the tree(s) plus one foot. The TPZ of any protected trees will be demarcated using fencing that will remain in place for the duration of construction activities. • Construction-related activities will be limited within the TPZ to those activities that can be done by hand. No heavy equipment or machinery will be operated within the TPZ. Grading will be prohibited within the TPZ. No construction materials, equipment, or heavy machinery will be stored within the TPZ. • To ensure that there is no net loss of riparian habitat, the City will create or restore riparian habitat that is of a like function and value to the habitats lost. The permanent degradation of riparian habitat will be compensated for at a 1:1 ratio through the purchase of similar habitat value from a CDFG-approved conservation bank. Compensation will take the form of riparian preservation or creation in accordance with CDFG mitigation requirements, as required under Project permits. Preservation and creation may occur onsite through a conservation agreement or offsite through purchasing credits at a Corps approved mitigation bank. • This mitigation will include compensation for the loss of riparian habitat and oak trees and will include the planting of Valley foothill/floodplain/ mixed riparian and oak woodland as appropriate. The planting plan will be implemented as detailed in a Restoration Plan approved by CDFG. The plan will include performance standards for revegetation that will ensure successful restoration of the riparian areas. • The City will replace any trees removed to ensure no net loss of habitat functions or values. All trees planted will be purchased from a locally adapted genetic stock obtained within 50 miles of the Project site, where feasible. Oak species will be replaced at a 3:1 ratio. All other species will be replaced at a 2:1 ratio. • The City will protect other wetlands, riverine and associated riparian habitats located in the vicinity of the Project area by installing protective fencing. Protective fencing will be installed 			

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	<p>along the edge of construction areas including temporary and permanent access roads where construction will occur within 200 feet of the edge of wetland and riverine habitat (as determined by a qualified biologist). The location of fencing will be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications will contain clear language that prohibits construction-related activities, vehicle operation, material and equipment storage, trenching, grading, or other surface-disturbing activities outside of the designated construction area. Signs will be erected along the protective fencing at a maximum spacing of one sign per 50 feet of fencing. The signs will state: "This area is environmentally sensitive; no construction or other operations may occur beyond this fencing. Violators may be subject to prosecution, fines, and imprisonment." The signs will be clearly readable at a distance of 20 ft., and will be maintained for the duration of construction activities in the area.</p> <ul style="list-style-type: none"> Where riparian vegetation occurs along the edge of the construction easement, the City will minimize the potential for long-term loss of riparian vegetation by trimming vegetation rather than removing the entire plant. Trimming will be conducted per the direction of a biologist and/or Certified Arborist. 			
	<p>Measure BIO-7: Once the wetland delineation has been verified and prior to construction, the City will obtain a Section 404 (Clean Water Act) permit for impacts to jurisdictional wetlands from the Corps, a 1602 Streambed Alteration Agreement from the CDFG, and a Section 401 permit from the Regional Water Quality Control Board (RWQCB) and will comply with all conditions of permits received. In association with either or both permits, compensatory mitigation for impacts to jurisdictional wetlands may be required. The City will compensate for the unavoidable loss of wetlands at a ratio of no less than 1:1 in order to ensure no net loss of wetland habitat. Corps mitigation guidelines emphasize on-site mitigation preference, but in the potential case that on-site mitigation is not available, the City will either:</p> <ul style="list-style-type: none"> Purchase wetland mitigation credits from a Corps approved mitigation bank that services the Project area, or Prepare a plan to implement mitigation at an on-site, if possible, or off-site location in accordance with the Corps mitigation requirements. <p>Terms of these permits and agreements could include additional provisions.</p>	City	City	Prior to construction

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	<p>Measure BIO-8: Protect Sensitive Tree Resources Adjacent to Construction Activities. Sensitive tree resources adjacent to construction activities may require additional protection. Where feasible, buffer zones should include a minimum one-foot-wide buffer zone outside the dripline for oaks and landmark trees. The locations of these resources would be clearly identified on the construction drawings and marked in the field by a Certified Arborist. Fencing or other barriers would remain in place until all construction and restoration work that involves heavy equipment is complete. Construction vehicles, equipment, or materials would not be parked or stored within the fenced area. No signs, ropes, cables, or other items would be attached to the protected trees. Grading, filling, trenching, paving, irrigation, and landscaping within the driplines of oak trees would be limited. Grading within the driplines of oak trees would not be permitted unless specifically authorized by a Certified Arborist. Hand-digging must be done in the vicinity of major trees and as recommended by a Certified Arborist to prevent root cutting and mangling by heavy equipment.</p> <p>In the event that an oak tree must be removed or an oak tree is lost due to construction activities, the City will implement Mitigation Measure BIO-6. All oak tree mitigation and/or restoration will be consistent with the Yuba County's General Plan, Conservation of Oak Woodlands objectives.</p> <p>As an alternative to offsite mitigation, the City may contribute funds to the Oak Woodlands Conservation Fund, as established under subdivision Fish and Game Code §1363(a), for the purpose of purchasing oak woodlands conservation easements, as specified under paragraph (1) of subdivision (d) of that section and the guidelines and criteria of the Wildlife Conservation Board. This measure may be implemented at such time as the Wildlife Conservation Board and/or California Department of Fish and Game establish guidelines, criteria, and a payment schedule for contribution to the Oak Woodlands Conservation Fund.</p>	City	City and Certified Arborist	During construction
Cultural Resources				
	<p>Measure CUL-1: If cultural resources are encountered, all activity in the vicinity of the find shall cease until it can be evaluated by a qualified archaeologist and a Native American representative. Prehistoric archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil ("midden") containing heat-affected rocks, artifacts, or shellfish remains; and stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered stone tools, such as hammerstones and pitted stones.</p>	City and Qualified Archaeologist	City and Qualified Archaeologist	During construction

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	<p>Historic-period materials might include stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse. If the archaeologist and Native American representative determine that the resources may be significant, they shall notify the City of Marysville. An appropriate treatment plan for the resources should be developed. The archaeologist shall consult with Native American representatives in determining appropriate treatment for prehistoric or Native American cultural resources.</p> <p>In considering any suggested mitigation proposed by the archaeologist and Native American representative, the City shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed in other parts of the Project area while mitigation for cultural resources is being carried out.</p>			
	<p>Measure CUL-2: If human remains are encountered unexpectedly during construction excavation and grading activities, State Health and Safety Code Section 7050.5 requires that no further disturbance shall occur until the Yuba County Coroner has made the necessary findings as to origin and disposition pursuant to PRC Section 5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the NAHC. The NAHC shall then identify the person(s) thought to be the Most Likely Descendent, who shall help determine what course of action should be taken in dealing with the remains.</p>	Contractor	City and/or Archaeologic Consultant	During construction
Geology, Soils, and Seismicity				
	<p>Measure GEO-1: The City shall ensure that a soils and geology investigation is completed prior to the construction of improvements on any undeveloped soils to determine their shrink swell potential. The study shall investigate the extent to which expansive soils are located on site, and provide recommendations regarding the specific construction or installation practices needed to offset the anticipated effects of expansive soils, to the extent warranted to protect the proposed facilities in accordance with applicable building codes and local requirements. The City shall ensure that the recommendations of the investigation are incorporated into Project design prior to initiation of construction activities.</p>	City	City	Prior to construction
Greenhouse Gas Emissions				
	No Mitigation Warranted	N/A	N/A	N/A

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Hazards and Hazardous Materials				
	Measure HM-1: If unidentified or suspected contaminated soil or groundwater is encountered during construction activities, the City and its contractors shall ensure that work is halted in the area of potential exposure, and the type and extent of contamination shall be identified by a Registered Environmental Assessor (REA). The environmental professional shall prepare a report that includes, but is not limited to, activities performed for the assessment, summary of anticipated contaminants and contaminant concentrations at the proposed construction site, and recommendations for appropriate handling of any contaminated materials during construction. The City shall ensure that the recommendations of the REA's report are adhered to.	City and Contractor	City and Contractor	During construction
	Implement Measure AIR-1	Contractor	Construction Inspector	During construction
	Implement Measure TRAFFIC-2	Contractor	Construction Inspector	Prior to construction
	Measure HM-2: During construction, staging areas, welding areas, or areas slated for development using spark-producing equipment shall be cleared of dried vegetation or other materials that could serve as fire fuel. To the extent feasible, the contractor shall keep these areas clear of combustible materials in order to maintain a firebreak. Any construction equipment that normally includes a spark arrester shall be equipped with an arrester in good working order. This includes, but is not limited to, vehicles, heavy equipment, and chainsaws.	Contractor	Construction Inspector	During construction
Hydrology and Water Quality				
	Implement Measure BIO-1	Contractor	City and Contractor	Prior to and during construction
	Measure HYD-1: Prior to the initiation of Project construction, a comprehensive drainage plan shall be prepared by the City, reviewed by the City engineer, and implemented for the installation of all proposed facilities that would require or result in grading or installation of new aboveground facilities including the proposed WWTP modifications, pipeline, and decommissioning activities. The drainage plan shall include measures to infiltrate, retain, or otherwise channel runoff away from areas of open soil and other features subject to erosion or flooding. Receiving drainage ditches or canals shall be sized appropriately to contain anticipated stormwater flows. Runoff waters shall be discharged in a manner to prevent downstream or offsite erosion, sedimentation, or flooding.	Contractor	Construction Inspector	During construction
	Measure HYD-2: Levee integrity shall not be degraded by Project implementation, and the City shall ensure that all construction	City	City	Prior to and during construction

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	activities comply with applicable State and Reclamation District guidelines for levee disturbance. Additionally, the City shall coordinate with Reclamation District No. 784 and adhere to all requirements and guidelines established by the Reclamation District, with respect to construction that interferes with or would disturb a flood control levee.			
Land Use and Land Use Planning	No Mitigation Warranted	N/A	N/A	N/A
Mineral Resources	No Mitigation Warranted	N/A	N/A	N/A
Noise	<p>Measure NOISE-1: Construction contractors shall implement the following measures to reduce daytime noise impacts due to construction:</p> <ul style="list-style-type: none"> Equipment and trucks used for Project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible); Construction equipment noise shall be minimized during Project construction by muffling and shielding intakes and exhaust on construction equipment (per the manufacturer's specifications) and by shrouding or shielding impact tools; and <p>Construction contractors shall locate fixed construction equipment (such as compressors and generators) and construction staging areas as far as feasible from nearby sensitive receptors.</p>	Contractor	Construction Inspector	During construction
	<p>Measure NOISE-2: The City shall implement the following measures to respond to and track complaints pertaining to construction noise:</p> <ul style="list-style-type: none"> Residents and businesses fronting the proposed alignment shall be noticed by mail at least 2 weeks prior to the commencement of construction activity in their area. The designation of a construction complaint manager for the proposed Project; and A listing of telephone numbers to reach the construction complaint manager for the proposed Project (during regular construction hours and off-hours). 	City	City	Prior to construction
	Measure NOISE-3. Construction activity shall utilize techniques that minimize ground-borne vibration (e.g., locate equipment as far away	Contractor	City	During construction

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	from sensitive receptors as feasible and avoid operating multiple pieces of equipment simultaneously near sensitive receptors) to the greatest extent feasible.			
Population and Housing	No Mitigation Warranted	N/A	N/A	N/A
Public Services	No Mitigation Warranted	N/A	N/A	N/A
Recreation	No Mitigation Warranted	N/A	N/A	N/A
Transportation and Traffic	Measure TRAFFIC-1: The City shall require the contractor(s) to obtain the necessary road encroachment permits from the County prior to construction and to comply with the applicable conditions of approval. Part of the conditions of approval would require the selected contractor(s) to resurface the roadways and restore roadside drainageways and other hydraulic features to existing conditions or better. Road encroachment permits may be necessary on the following roadways: Riverside Drive, Feather River Boulevard, and Myrna Avenue.	Contractor	City	Prior to construction
	Measure TRAFFIC-2: The City of Marysville shall require the contractor(s) to prepare a Traffic Control Plan in accordance with professional engineering standards prior to construction. The Traffic Control Plan could include the following requirements: <ul style="list-style-type: none"> • Emergency services access to local land uses shall be maintained at all times for the duration of construction activities. Local emergency service providers shall be informed of road closures and detours. • For roadways requiring full closures, the construction contractor(s), with oversight by the City of Marysville and Yuba County, shall develop circulation and detour plans to minimize impacts to local street circulation. This would include the use of signing to guide vehicles onto alternative roads around the construction zone. • Advanced warning signs of construction activities shall be posted to allow motorists to select alternative routes in advance. This shall include noticing of residents and businesses fronting the alignment at least two weeks prior to the commencement of construction activities. • Access for local land uses including residential driveways, 	Contractor	Construction Inspector	Prior to construction

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	<p>commercial properties, and agricultural lands during construction activities shall be maintained.</p> <ul style="list-style-type: none"> • Roadside safety protocols shall be complied with, so as to reduce the risk of accident. • Coordination with Yuba Sutter Transit shall temporarily relocate or reconfigure bus routes and bus stops as it deems necessary. • A telephone resource shall be arranged to address public questions and complaints during Project construction. 	City and Contractor	City	During construction
Utilities and Service Systems	Measure TRAFFIC-3: The City shall return all roadways to a structural condition equal to that which existed prior to construction activity.	City and Contractor	City	During construction
	No Mitigation Warranted	N/A	N/A	N/A