CALENDAR ITEM

C04

A 11 02/21/14
W 26708
S 3 R. Boggiano

DREDGING LEASE

APPLICANT:
Suisun Resource Conservation District

AREA, LAND TYPE, AND LOCATION:
Sovereign land in the Suisun Marsh, which is bounded to the west by Interstate 680, Highway 12 to the north, Shiloh Road and Collinsville Road to the east, and Suisun Bay to the south, Solano County.

AUTHORIZED USE:
Maintenance dredging to remove a maximum of 100,000 cubic yards of material annually.

LEASE TERM:
10 years, beginning February 21, 2014.

CONSIDERATION:
No monetary consideration will be charged as the project will result in a public benefit. Dredged material may not be sold.

OTHER PERTINENT INFORMATION:

1. Suisun Resource Conservation District has applied for a lease for proposed maintenance dredging as part of the Suisun Marsh Dredging Program. This will allow private landowners, Reclamation Districts, the California Department of Fish and Wildlife (CDFW), and the Department of Water Resources to dredge material from tidal areas within Suisun Marsh and use it for exterior levee maintenance and repair. The dredging program will allow up to 100,000 cubic yards to be dredged annually from major and minor tidal sloughs, bays, and dredger cuts. The dredged material will be excavated from either a land based excavator using long reach excavators from the crown of the exterior levees, or by using a clamshell dredge or excavator on a floating barge. Landowners may dredge material from the Suisun Marsh from August 1 through November 30.

2. The Applicant oversees and administers work performed by approximately 150 participating landowners. Before participation in the program, the landowners will submit agreements giving the Applicant permission to oversee the work.

3. For proposed dredging, landowners must submit an application to dredge to the Applicant and CDFW no later than April 30th of each year. The application will contain detailed information of the proposed site, dimensions of the levee, the cubic yardage requested, description of the dredging source site conditions (dredger cut, minor slough, etc.), type of equipment used, and GPS coordinates of the extent of the proposed site. The Applicant and CDFW will review each pre-project application to confirm the proposed action is consistent with all requirements and conduct site inspections if necessary. The Applicant will send agency authorization letters to the landowners identifying allocations for individual ownerships and specific levee segments. A yearly summary report of the dredging program will be submitted post-construction. The report will include a summary of total yearly requests, total volume authorized, actual work completed, pre-and post-construction photos, and a breakdown of dredging activities, including a map showing all levee segments maintained by dredging and additional site-specific information for each project. The post-project report will be submitted no later than January 31 the following year.

4. A Joint Document (JD) Environmental Impact Statement/Report (EIS/R), State Clearinghouse No. 2003112039, was prepared for the Suisun Marsh Habitat Management, Preservation, and Restoration Plan (SMP) by the California Department of Fish and Wildlife (previously referred to as the California Department of Fish and Game) and certified on December 22, 2011. The California State Lands Commission staff has reviewed such 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. In addition to discrete mitigation measures, the SMP integrated environmental commitments for restoration and managed wetland activities into the project design. These environmental commitments are discussed in detail in Chapter 2 of the SMP.

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

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 OBTAINED:

U.S. Army Corps of Engineers

FURTHER APPROVALS REQUIRED:

U.S. Fish and Wildlife Service
San Francisco Bay Regional Water Quality Control board
National Marine Fisheries Service

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDINGS:

1. Find that a JD EIS/R, State Clearinghouse No. 2003112039, was prepared for this project by the California Department of Fish and Wildlife and certified on December 22, 2011, and that the Commission has reviewed and considered the information contained therein.

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

3. Adopt the Findings, made in conformance with California Code of Regulations, Title 14, sections 15091 and 15096, subdivision (h), and the Statement of Overriding Considerations made in conformance with California Code of Regulations, Title 14, section 15093, as contained in Exhibit D, attached hereto.

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 sections 6370, et seq.

AUTHORIZATION:

Authorize the issuance of a Dredging Lease to Suisun Resource Conservation District beginning February 21, 2014, for a term of 10 years, for annual maintenance dredging to remove a maximum of 100,000 cubic yards of material annually as shown on Exhibit A (for reference purposes only) and as described in Exhibit B attached and by this reference made a part hereof; such permitted activity is contingent upon Applicant's compliance with applicable permits, recommendations, or limitations issued by federal, State and local governments; no monetary consideration will be charged as the project will result in a public benefit; dredged material may not be sold.

EXHIBIT A

W 26708

LAND DESCRIPTION

All those tide and submerged lands situate in Suisun Marsh, Solano County, California, and being within the exterior boundaries of the following described Townships as shown on those Official Government Township Plats outlined below:

T 5 N, R 2 W, MDM;
T 5 N, R 1 W, MDM;
T 4 N, R 2 W, MDM;
T 4 N, R 1 W, MDM;
T 4 N, R 1 E, MDM;
T 3 N, R 2 W, MDM;
T 3 N, R 1 W, MDM;
T 3 N, R 1 E, MDM;
T 2 N, R 2 W, MDM;
T 2 N, R 1 W, MDM;
T 2 N, R 1 E, MDM.

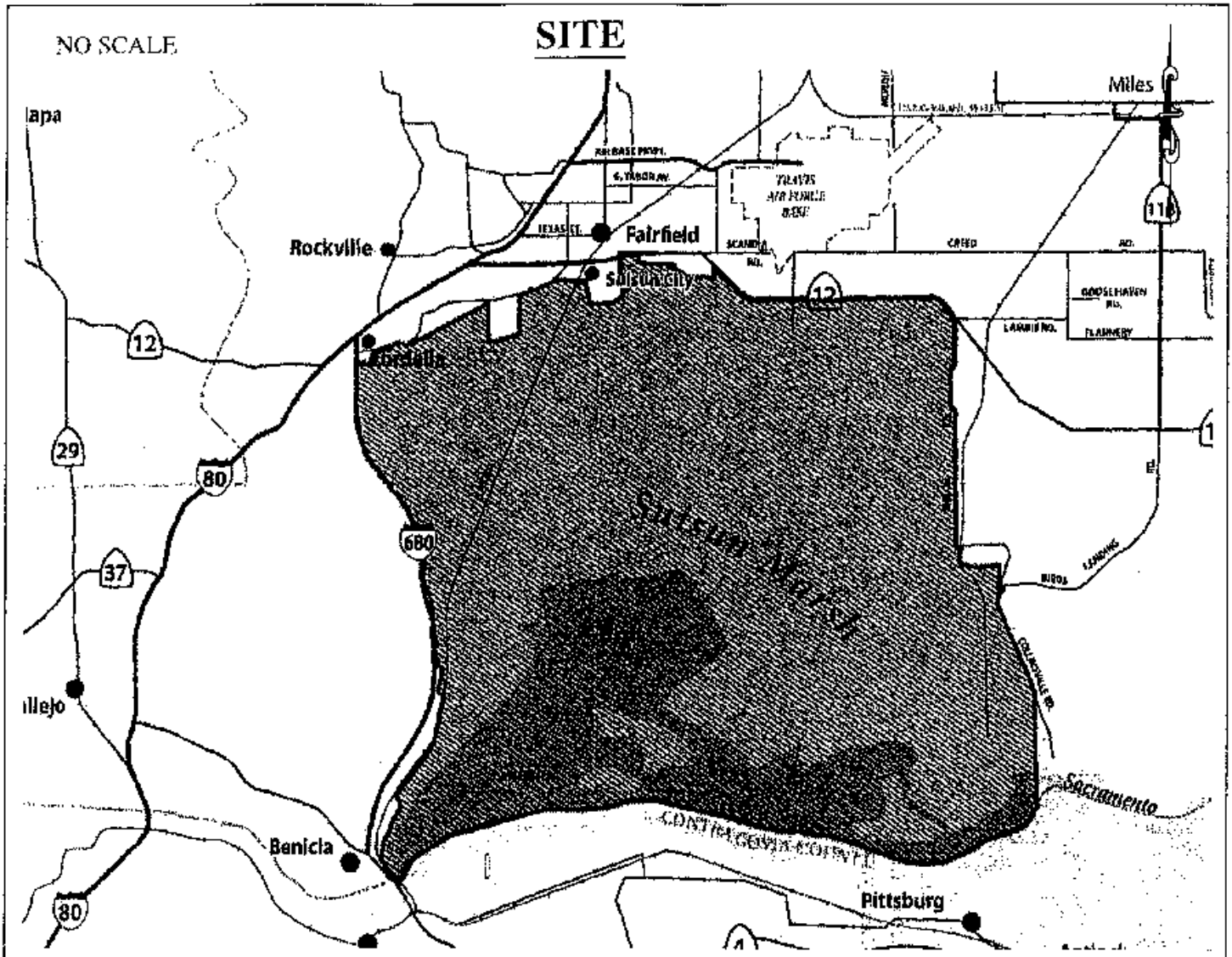
EXCEPTING THEREFROM any validly patented tide and/or submerged lands in the above described townships.

END OF DESCRIPTION

PREPARED 10/24/13 BY THE CALIFORNIA STATE LANDS COMMISION BOUNDARY UNIT

NO SCALE

SITE



SUISUN MARSH

NO SCALE

LOCATION

MAP SOURCE: USGS QUAD

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

Exhibit B

W 26708
SUISUN RESOURCE CONSERVATION DISTRICT
GENERAL LEASE - DREDGING LEASE
SOLANO COUNTY

MJF 10/23/13

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION (CSLC)
MITIGATION MONITORING PROGRAM

Suisun Marsh Habitat Management, Preservation, and Restoration Plan (W 26708)

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
Air Quality				
Impact AQ-1. Generation of Construction-Related Emissions in Excess of Draft Bay Area Air Quality Management District (BAAQMD) Standards Associated with Restoration	**Mitigation Measure AQ-MM-1: Limit Construction Activity during Restoration.** The project proponent will limit construction activity so that site preparation can occur on only one parcel at a time. This will ensure that construction emissions do not exceed the draft BAAQMD threshold for nitrogen oxide.	Adhere to limitations of construction activity	Contractor	During Construction
	Mitigation Measure AQ-MM-2: Reduce Construction Nitrogen Oxide (NO_x) Emissions. The project proponent will ensure that construction emissions do not exceed the BAAQMD's draft construction threshold of 54 pounds per day for NO_x. Such measures include, but are not limited to, implementing off-road equipment mitigation, including installing first tier diesel particulate filters, and installing diesel oxidation catalysts to reduce NO_x emissions by 40%. Tables 5.7-8 and 5.7-10 of the Suisun Marsh Habitat Management, Preservation, and Restoration Plan show appropriate types of construction equipment, and corresponding numbers of equipment pieces, that can be operating at any given time in the marsh.	Implement construction emissions measures	Contractor	During Construction
	Mitigation Measure AQ-MM-3: Implement All Appropriate BAAQMD Mitigation Measures. The project proponent will implement BAAQMD standard mitigation measures where appropriate and feasible. These measures include: • Cover all haul trucks transporting soil, sand, or other loose material off-site. • Remove all visible mud or dirt track-out onto adjacent public roads. • Minimize idling times either by shutting equipment off	Implement BAAQMD measures	Contractor	Prior to and During Construction

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
	when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage must be provided for construction workers at all access points. • Maintain all construction equipment in accordance with manufacturer's specifications. All equipment must be checked by a certified mechanic and determined to be running in proper condition prior to operation. • Post a publicly visible sign with the telephone number and person to contact at the restoration project proponent regarding dust complaints. This person must respond and take corrective action within 48 hours. The Air District's phone number also must be visible to ensure compliance with applicable regulations.			
Impact AQ-4. Generation of Construction-Related Emissions in Excess of Draft Bay Area Air Quality Management District (BAAQMD) Standards Associated with Restoration and Management Activities Combined	**Mitigation Measure AQ-MM-4: Limit Construction Activity during Restoration and Management.** The project proponent will limit simultaneous restoration and management activity so that the emissions from the equipment being used in the Suisun Marsh Habitat Management, Preservation, and Restoration Plan (SMP) area do not exceed the emissions described in Tables 5.7-13 and 5.7-14 of the SMP, which are based on the anticipated construction equipment in Tables 5.7-8 and 5.7-10 of the SMP. This will ensure that construction emissions do not exceed the draft BAAQMD District threshold for nitrogen oxide.	Adhere to limitations of construction activity	Contractor	During Construction

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
Noise				
Impact NZ-6. Exposure of Noise-Sensitive Land Uses to Noise from Portable Pump Operations	**Mitigation Measure NZ-MM-1: Limit Noise from Pump Operations** The specific project proponent will shall limit noise from pump operations, where feasible, such that noise from pump operations does not exceed 70 Community Noise Equivalent Level in the surrounding areas. Noise control measures that can be implemented to reduce noise from pumps on adjacent land uses include the following: • All internal combustion engine-driven equipment will be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment. • Unnecessary idling of internal combustion engines will be strictly prohibited. • Staging of pump equipment within 275 feet of residences will be avoided. Where equipment must be located within 275 feet of residences, enclosures or barriers will be provided around pumps to reduce noise to acceptable levels.	Adhere to noise limitations	Contractor	
Utilities and Public Services				
Impact UTL-1: Damage to Pipelines and/or Disruption of Electrical, Gas, or Other Energy Services during Construction or Restoration Activities	**UTL-MM-1: Relocate or Protect Overhead Powerlines or Other Utilities that Could be Affected by Construction.** If overhead utilities that could be damaged or affected during construction or restoration activities are present on a property, the specific project proponent will coordinate with the utility owner and/or operator to have the lines protected or relocated to ensure there is no potential for disruption to service or damage to the facilities during or after construction. The area of relocation would be selected to ensure that there are minimal or no sensitive resources that would be affected. Environmental commitments included in Chapter 2 of the Suisun Marsh Habitat Management,	Coordinate with utility owners	Contractor	Prior to Construction

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
	Preservation, and Restoration Plan will be incorporated into this activity. Relocation would occur prior to inundation.			
	UTL-MM-2: Avoid Ground-Disturbing Activities Within Pipeline Right-of-Way. The specific project proponent will coordinate with the owners and/or operators of pipelines that could be affected by restoration to determine the location of the pipelines and to design restoration to ensure that no ground-disturbing activities occur within the right-of-way. However, ground-disturbing activities associated with the repair or replacement of the pipelines as described in Mitigation Measure UTL-MM-4 would need to occur. These activities are intended to improve the integrity of the pipelines and, therefore, would not result in any additional impacts on the pipeline. Avoidance of these areas for purposes of restoration construction would ensure that no construction-related damage or disruption to services would occur.	Coordinate with the pipeline owners and/or operators	Contractor	During Construction
Impact UTL-2: Damage to Utility Facilities or Disruption to Service as a Result of Restoration	**UTL-MM-3: Relocate or Upgrade Utility Facilities that Could be Damaged by Inundation.** Pipelines or other utilities that could be damaged by inundation would be relocated or upgraded by the utility owner and/or operator based on a determination by the utility owner and/or operator that inundation could cause damage to the facilities. Relocation would be to areas with minimal or no sensitive resources. Upgrades could include buoyancy controls, reinforcements, or other improvements that would allow the facility to continue its normal operation under the inundated condition. Relocation and/or upgrading would occur prior to inundation of the site.	Coordinate with utility and pipeline owners	Contractor	Prior to Inundation

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
	UTL-MM-4: Test and repair or replace pipelines that have the potential for failure. All pipelines have some potential for failure, but as pipes age, this potential may increase. Prior to inundation of a site-specific project, proponents will coordinate with pipeline owners and/or operators to have them test pipelines for leaks or other weaknesses that could result in a failure. Depending on the results of these tests, repairs to or replacement of the existing pipe may be conducted. Various methods for pipe repair and replacement exist, including directional drilling, open trench replacement, and placement of a secondary pipeline around the existing pipeline. All of these treatments would occur within or adjacent to the existing alignment right-of-way. The impacts of this mitigation measure are similar to other restoration impacts on traffic, noise, air quality, biological resources, cultural resources, and soils. Mitigation for impacts of these resources resulting from pipeline repair or replacement along with environmental commitments for major construction activities, described in Chapter 2 of the Suisun Marsh Habitat Management, Preservation, and Restoration Plan, would be implemented to ensure there are no additional effects related to implementing this mitigation measure.	Coordinate with the pipeline owners and/or operators	Contractor	Prior to Inundation
Impact UTL-5: Damage to Pipelines and/or Disruption of Electrical, Gas, or Other Energy Services during Dredging	**See UTL-MM-2: Avoid Ground-Disturbing Activities within Pipeline Right-of-Way.**	Coordinate with the pipeline owners and/or operators	Contractor	During Construction

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
Cultural Resources				
Impact CUL-1: Damage to Montezuma Slough Rural Historic Landscape as a Result of Ground-Disturbing Activities along Montezuma Slough	**CUL-MM-1: Document and evaluate the Montezuma Slough rural historic landscape, assess Prior to Project proponent impacts, and implement mitigation measures to lessen impacts.** No formal evaluation of the Montezuma Slough Rural Historic Landscape to determine resource significance under the National Register of Historic Places criteria and the California Environmental Quality Act has been undertaken to date; Esser (1999) identifies the presence of this rural historic landscape, but this study does not constitute complete documentation of the resource nor does it evaluate its significance. Similarly, the exact locations of the effects of Impact CUL-1 are unknown, as are the frequency and severity of impacts on the Montezuma Slough Rural Historic Landscape. For implementation of specific actions, the State, local, or federal lead agency (as applicable) will conduct an inventory and significance evaluation of the Montezuma Slough Rural Historic Landscape. The inventory and evaluation will be conducted according to the following standards. • The implementing regulations for Section 106 of the NHPA (36 Code of Federal Regulations [CFR] 800.4). • The State CEQA Guidelines (14 CCR 15064.5[a]). • *Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* (48 Federal Register [FR] 44716-44742). • *The Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the National Historic Preservation Act* (including the Guidelines for the Treatment of Cultural Landscapes).	Conduct cultural evaluations and document potential resources	Project Proponent	Prior to Construction

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
	• Applicable National Register of Historic Places bulletins and National Park Service technical briefs (Andrus and Shrimpton 1997; Birnbaum 1994; McClelland et al. 1995). If, based on the findings of the inventory, the Montezuma Slough Rural Historic Landscape does not constitute a historic property or historical resource, implementation of the mitigation measure would reduce the severity of Impact CUL-1 to a less-than-significant level. On the other hand, if the Montezuma Slough Rural Historic Landscape constitutes a historic property or historical resource, the lead federal agency through consultation with State Historic Preservation Office and the State lead agency for project implementation, as applicable, will devise measures to reduce the severity of significant effect(s) on the property and will require implementation of the measures prior to implementation of specific restoration activities. Under the California Environmental Quality Act, the lead agency will propose such mitigation measures in an Environmental Impact Report or Mitigated Negative Declaration as appropriate. For federal actions or undertakings, the lead federal agency will resolve any adverse impacts through the provisions of 36 CFR 800.6, which would be codified in a memorandum of agreement and in the proposed action's Environmental Impact Statement and record of decision or Environmental Assessment supporting a Finding of No Significant Impact. Implementation of the mitigation measures would reduce the severity of the impact, although not necessarily to a less-than-significant or non-adverse level.			

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
Impact CUL-2: Damage to or Destruction of Other Known Cultural Resources as a Result of Ground-Disturbing Activities in Lowland and Marsh Areas	**CUL-MM-2: Evaluate previously recorded cultural resources and fence National Register of Historic Places (NRHP) and California Register of Historical Resources (CRHR)-eligible resources prior to ground-disturbing activities.** The lead federal or state agency, as applicable, will evaluate previously recorded cultural resources located in restoration areas for NRHP and CRHR eligibility. The lead federal or state agency will ensure that all NRHP- and CRHR-eligible properties are fenced prior to start of ground-disturbing activities; no further action will be required for ineligible properties. The lead federal or state agency will use the maps contained in the site records for the eligible properties to establish site boundaries in the field. The lead federal or State agency will demarcate the site boundaries using t-stakes and orange fencing. Signs marking the fenced area as an environmentally sensitive area will be placed at suitable intervals along the fence. The lead federal or State agency will examine the fencing periodically to ensure that the barrier is not crossed and that it clearly delimits the site boundaries throughout the duration of ground-disturbing activities.	Evaluate cultural resources	Project Proponent	Prior to Construction
Impact CUL-3: Damage to Known Cultural Resources as a Result of Tidal Inundation	**Mitigation Measure CUL-MM-3: Protect Known Cultural Resources from Damage Incurred by Tidal Inundation through Plan Design (Avoidance).** The lead federal or State agency, as applicable, will evaluate the significance of the cultural resources listed in Table 7.7-10 of Suisun Marsh Habitat Management, Preservation, and Restoration Plan prior to tidal inundation of lands in the restoration areas. For cultural resources that the lead federal or State agency determine are ineligible for listing in the National Register of Historic Places (NRHP) and California Register of Historical Resources (CRHR), no further	Evaluate cultural resources	Project Proponent	Prior to Construction

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
	action would be required. The lead federal or State agency will, on the other hand, avoid damaging NRHP- and CRHR-eligible cultural resources through plan design, using detailed maps of the cultural resources concerned and field reviews to avoid any eligible properties. In the event that implementation of CUL-MM-3 is infeasible, the lead federal or State agency will implement Mitigation Measure CUL-MM-4.			
	CUL-MM-4: Resolve adverse effects [to known cultural resources] prior to construction. The lead federal or State agency, as applicable, will evaluate the significance of the cultural resources listed in Table 7.7-10 of the Suisun Marsh Habitat Management, Preservation and Restoration Plan prior to tidal inundation of lands in the restoration areas. For cultural resources that the lead federal or state agency determine are ineligible for listing in the National Register of Historic Places (NRHP) and California Register of Historical Resources (CRHR), no further action would be required. The lead federal or state agency will, on the other hand, avoid damaging NRHP- and CRHR-eligible cultural resources through plan design, using detailed maps of the cultural resources concerned and field reviews to avoid any eligible properties. In the event that implementation of CUL-MM-3 is infeasible, the lead federal or State agency will implement Mitigation Measure CUL-MM-4.	Coordinate with federal and state agencies to evaluate cultural resources avoidance	Project Proponent in coordination with federal and/or state agencies	Prior to Construction
Impact CUL-4: Inadvertent Damage to or Destruction of As-Yet-Unidentified Cultural Resources as a	**CUL-MM-5: Conduct cultural resource inventories and evaluations and resolve any adverse effects.** Prior to approval and final design of restoration activities, the lead federal or state agency will resolve adverse effects in accordance with Section 106 of the National Historic Preservation Act and California Environmental Quality Act, as applicable. Such effect	Coordinate with federal and state agencies to conduct cultural resource inventories	Project Proponent in coordination with federal and/or state agencies	Prior to Construction

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
Result of Ground-Disturbing Activities in Restoration Areas	resolutions may include Historic American Building Survey/Historic American Engineering Record documentation of historic buildings and structures, data recovery excavations of archaeological sites, preparation of public interpretive documents, and documentation of these actions.			
Impact CUL-6: Damage to or Destruction of Shipwrecks or Other Submerged Resources as a Result of Channel Dredging	**CUL-MM-6: Stop ground-disturbing activities, evaluate the significance of the discovery, and implement mitigation measures as appropriate**. In the event that a shipwreck is encountered during channel dredging, all channel-disturbing activities within a minimum of 100 feet of the shipwreck must cease. The State, local, or federal lead agency (as applicable) will require notification and commission of a qualified maritime or underwater cultural resource specialist to inspect the find. The cultural resource specialist will record the location of the shipwreck, the circumstances leading to the inadvertent discovery, the condition and character of the shipwreck, and the degree of damage incurred as a result of channel dredging. The cultural resource specialist also will make recommendations as to the appropriate distance from the shipwreck at which channel dredging may continue. The cultural resource specialist will evaluate the shipwreck to determine whether it constitutes a historic property, historical resource, or unique archaeological resource. The cultural resource specialist and all work associated with documentation and evaluation of shipwrecks must meet the Secretary of the Interior's standards for professional archaeologist or historian (48 FR 44720-44723) and incorporate the National Park Service's guidance concerning the nomination of shipwrecks to the National Register of Historic Places (Delgado and A National Park Service Maritime Task Force 1992).	Implement mitigation measures	Contractor/ Project Proponent in coordination with federal and/or state agencies	During construction

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
Impact CUL-7: Damage to or Destruction of Known Cultural Resources Resulting from Managed Wetland Activities	**CUL-MM-7: Complete National Historic Preservation Act (NHPA) Section 106 consultation and Prepare and Implement Context Study; Evaluate Previously Recorded Cultural Resources and Fence National Register of Historic Places (NRHP) and California Register of Historical Resources (CRHR)-Eligible Cultural Resources prior to Ground-Disturbing Activities.** ***NHPA Section 106 Consultation and Context Study*** The Suisun Marsh Habitat Management, Preservation, and Restoration Plan (SMP) will be implemented over 30 years in several phases. The current level of detail in the project description is insufficient to discuss project impacts, knowledge of which would influence with certainty the level of inventory effort with respect to the historic landscape. Similar problems with other project effects confound attempts to inventory and evaluate cultural resources in the plan area according to the standard Section 106 process described at 36 CFR 800. Therefore, a context study will be prepared in association with completion of NHPA Section 106 Consultation with the State Historic Preservation Office (SHPO). The contextual study approach will incorporate a geoarchaeological sensitivity model, land use history and evaluation of classes of architectural features, and application of effects per Section 106 Part 800.4(2). Reclamation will assess the effects of the activities to classes of architectural features, rather than individual sites, due to the complexity of the history and interrelationship of the features, as well as the potential for features contributing to the eligibility of other features of the Suisun Marsh water and salinity management system. If deemed appropriate, through	Consult with the SHPO and prepare and implement studies and evaluations	Reclamation	Prior to and during construction

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
	coordination with the State Historic Preservation Office (SHPO) and the results of the context study, a Programmatic Agreement (PA) and Historic Properties Treatment Plan (HPTP) will be completed as described below. PAs and HPTPs are effective ways to accommodate both the program requirements and compliance with the California Environmental Quality Act, the National Environmental Policy Act and Section 10.6 of the NHPA. Under Section 106, a PA can be used: i. when effects on historic properties are similar and repetitive or are multi-state or regional in scope; ii. when effects on historic properties cannot be fully determined prior to approval of an undertaking; iii. when nonfederal parties are delegated major decision-making responsibilities; iv. where routine management activities are undertaken at federal installations, facilities, or other land-management units; or v. where other circumstances warrant a departure from the normal Section 106 process. (36 CFR 800.14[b][1].) The SMP meets the first four criteria for use of a PA. First, certain effects, particularly under the managed wetland activities (see impact discussion later herein), would be implemented repeatedly. Second, the present project description is not in a stage of development that is sufficient to complete historic property identification efforts. Third, nonfederal parties likely will have major decision-making responsibilities with respect to implementation of the SMP. Finally, routine management (maintenance) activities will be undertaken at federal facilities under the SMP.			

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
	If determined appropriate through coordination with the SHPO, Reclamation will prepare a PA, which will identify standards, responsible parties, and timeframes for identifying and resolving effects on historic properties. The purpose of the PA is to document the fact that all responsible parties to the project understand there will be adverse effects on historic properties and that they agree on methods by which to resolve those adverse effects. The HPTP, on the other hand, would explain just how adverse effects will be resolved and provide a tailored program for historic property identification and treatment for the undertaking. The HPTP would contain research themes for expected property types (prehistoric archaeological properties, historic built environment properties, etc.) to guide all aspects of cultural resources inventories conducted for the undertaking. The research themes would be geared specifically to frame NRHP and CRHR evaluations of identified properties. The PA and HPTP would contain provisions for project activities undertaken by nonfederal entities such as the Department of Water Resources and the Suisun Restoration Conservation District. Completion of consultation with the SHPO in accordance with the NHPA, and if appropriate, preparation and implementation of the PA and HPTP, will be completed prior to implementation of the SMP. The PA and HPTP will stipulate evaluation procedures for the determination of, and consultation regarding, NRHP and CRHR eligibility. Reclamation will ensure that any eligible properties are fenced prior to commencement of ground-disturbing activities; no further action will be required for ineligible properties.			

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
	Reclamation will use the maps contained in the site records for the eligible properties to establish site boundaries in the field. Reclamation will demarcate the site boundaries using t-stakes and orange fencing. Signs marking the fenced area as an environmentally sensitive area will be placed at suitable intervals along the fence. Reclamation will examine the fencing periodically to ensure that the barrier is not crossed and clearly delimits the site boundaries throughout the duration of ground-disturbing activities.			
	CUL-MM-8: Complete National Historic Preservation Act (NHPA) Section 106 Consultation and Prepare and Implement Context Study for the Suisun Marsh Habitat Management, Preservation, and Restoration Plan (SMP); Conduct Cultural Resources Inventories and Evaluations and Resolve Any Adverse Effects. Prior to implementation of managed wetland activities under the SMP, Reclamation will complete NHPA Section 106 consultation with the State Historic Preservation Office (SHPO), and prepare a context study as described in CUL-MM-7. If deemed appropriate through coordination with the SHPO and the results of the context study, a Programmatic Agreement (PA) and Historic Properties Treatment Plan (HPTP) will be completed. These documents will clearly identify the lead agency responsible for PA/HPTP compliance for each class of activity (for instance, Reclamation for Preservation Agreement Implementation [PAI] funded projects), as well as historic properties identification methods. If any cultural resources are determined to be historic properties and ground-disturbing activities are found to result in adverse effects, the lead agency for the subject activities will resolve the effects in accordance with the PA and HPTP.	Consult with the SHPO and prepare and implement studies and evaluations	Reclamation	Prior to and during construction

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
Public Health and Environmental Hazards				
Impact HAZ-7: Increased Human and Environmental Exposure to Natural Gas and Petroleum	• **See UTL-MM-2: Avoid ground-disturbing activities within pipeline right-of-way.** • **See UTL-MM-3: Relocate or upgrade utility facilities that could be damaged by inundation.** • **See UTL-MM-4: Test and repair or replace pipelines that have the potential for failure.**	Coordinate with utility and pipeline owners and/or operators	Contractor/ Project Proponent	Prior to and during, and following Construction
Environmental Commitments				
Impacts to environmental resources due to project implementation	In addition to the discrete mitigation measures as noted above and adopted as part of the Suisun Marsh Habitat Management, Preservation, and Restoration Plan (SMP) and the CSLC Lease approval, environmental commitments for restoration and managed wetland activities were integrated into the project design and will be implemented. These environmental commitments are discussed in detail in Chapter 2 of the SMP.	Implement Environmental Commitment measures	CDFW, SRCD, Reclamation, DWR, Project Proponents, and Contractors	Prior to and during, and following Construction

EXHIBIT D
STATEMENT OF FINDINGS AND
STATEMENT OF OVERRIDING CONSIDERATIONS

Suisun Marsh Habitat Management, Preservation, and Restoration Plan
(W 26708)

1.0 INTRODUCTION

The California State Lands Commission (CSLC), acting as a responsible agency under the California Environmental Quality Act (CEQA), makes these findings and this Statement of Overriding Considerations to comply with CEQA as part of its discretionary approval to authorize issuance of a General Lease – Public Agency Use to the Suisun Resource Conservation District (SRCD) for use of sovereign lands associated with the proposed Suisun Marsh Habitat Management, Preservation, and Restoration Plan (SMP or Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines, § 15381.)[1] The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. (Pub. Resources Code, §§ 6301, 6306.) All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

The CSLC is a responsible agency under CEQA for the Project because the CSLC must approve a lease for the Project to go forward and because the California Department of Fish and Wildlife (CDFW, previously California Department of Fish and Game), as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. The CDFW analyzed the environmental impacts associated with the Project in an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) (State Clearinghouse [SCH] No. 2003112039) and, in December 2011, certified the EIR and adopted a Mitigation Monitoring and Reporting Program (MMRP) and Findings, and Statement of Overriding Considerations.

The SMP also integrated environmental commitments for restoration and managed wetland activities into the project design that will be implemented. These environmental commitments are discussed in detail in Chapter 2 of the SMP.

The SMP is being pursued by the Suisun Principal Agencies (or Principals), a group of agencies with primary responsibility for Suisun Marsh management, and is intended to balance the benefits of tidal wetland restoration with other habitat uses in the Marsh by evaluating alternatives that provide a politically acceptable change in Marshwide land uses, such as salt marsh harvest mouse habitat, managed wetlands, public use, and

[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.

upland habitat. It relies on the incorporation of existing science and information developed through adaptive management. The Principals are:

- U.S. Fish and Wildlife Service (USFWS);
- U.S. Department of the Interior, Bureau of Reclamation (Reclamation);
- CDFW;
- California Department of Water Resources (DWR);
- National Marine Fisheries Service (NMFS);
- SRCD; and
- CALFED Bay-Delta Program (CALFED).

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

- Air Quality;
- Cultural Resources;
- Noise;
- Public Health and Environmental Hazards; and
- Utilities and Public Services.

Project components within the CSLC's jurisdiction could have significant environmental effects on all five of the above resource areas.

In certifying the EIR and approving the Project, the CDFW 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. However, even with the integration of all feasible mitigation, the CDFW concluded in the EIS/EIR that some of the identified impacts would remain significant. As a result, the CDFW adopted a Statement of Overriding Considerations to support its approval of the Project despite the significant and unavoidable impacts. The CDFW determined that, after mitigation, the Project may still have significant impacts on Cultural Resources. Because some of these significant impacts may occur on lands under the jurisdiction of the CSLC, the CSLC also adopts the Statement of Overriding Considerations set forth in this exhibit as part of its approval.

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

2.0 FINDINGS

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

While the CSLC must consider the environmental impacts of the Project as set forth in the EIR/EIS, the CSLC's obligation to mitigate or avoid the direct or indirect environmental impacts of the Project is limited to those parts which it decides to carry out, finance, or approve. (Pub. Resources Code, § 21002.1, subd. (d); State CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because the CSLC's exercise of discretion involves only issuing a General Lease – Public Agency Use for this Project, the CSLC is responsible for considering only the environmental impacts related to lands or resources subject to the CSLC's jurisdiction. With respect to all other impacts associated with implementation of the Project, the CSLC is bound by the legal presumption that the EIS/EIR fully complies with CEQA.

The CSLC has reviewed and considered the information contained in the Project EIS/EIR. All significant adverse impacts of the Project identified in the EIS/EIR relating to the CSLC's approval of a General Lease – Public Agency Use, which would allow management and restoration activities, are included herein and organized according to the resource affected. These Findings, which reflect the independent judgment of the CSLC, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects unless the agency makes written findings for each of those significant effects. Possible findings on each significant effect are:

(1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment;

(2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency;

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.[2]

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

Whenever Finding (3) is made, the CSLC has determined that sufficient mitigation is not practicable to reduce the impact to a less than significant level, and even after implementation of all feasible mitigation measures, there will be or could be one or more unavoidable significant adverse impacts due to the Project. Significant impacts requiring Finding (3) were identified in the Final EIS/EIR. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts related to the CSLC's discretionary action, as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15093, 15096, subd. (h).)

These Findings are based on the information contained in the EIR, all of which is contained in the administrative record. The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in the EIR.

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

I. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION

The following impacts were determined in the EIS/EIR to be potentially significant absent mitigation:

Impact	Mitigation Measures
A. **Air Quality**	AQ-1, AQ-2, AQ-4
B. **Noise**	NZ-6
C. **Utilities and Public Services**	UTL-1, UTL-2, UTL-5
D. **Cultural Resources**	CUL-2, CUL-6, CUL-7
E. **Public Health and Environmental Hazards**	HAZ-7

After application of mitigation, however, the impacts were determined to be less than significant.

A. AIR QUALITY

CEQA FINDING NO. AQ-1

Impact: **Impact AQ-1.** Generation of Construction-Related Emissions in Excess of Draft Bay Area Air Quality Management District (BAAQMD) Standards Associated with Restoration.

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 EIS/EIR.

FACTS SUPPORTING THE FINDING(S)

Implementation of restoration projects under the SMP would require temporary construction activities in the project area that would involve the use of heavy equipment.

This would generate nitrogen oxide (NO_x) emissions in excess of the draft BAAQMD construction thresholds. Mitigation Measures AQ-MM-1, AQ-MM-2, and AQ-MM-3 have been incorporated into the SMP to reduce this impact to a less-than-significant level.

Mitigation Measure AQ-MM-1: Limit Construction Activity during Restoration. The project proponent will limit construction activity so that site preparation can occur on only one parcel at a time. This will ensure that construction emissions do not exceed the draft BAAQMD threshold for nitrogen oxide.

Mitigation Measure AQ-MM-2: Reduce Construction Nitrogen Oxide (NO_x) Emissions. The project proponent will ensure that construction emissions do not exceed the BAAQMD's draft construction threshold of 54 pounds per day for NO_x. Such measures include, but are not limited to, implementing off-road equipment mitigation, including installing first tier diesel particulate filters, and installing diesel oxidation catalysts to reduce NO_x emissions by 40%. Tables 5.7-8 and 5.7-10 of the Suisun Marsh Habitat Management, Preservation, and Restoration Plan show appropriate types of construction equipment, and corresponding numbers of equipment pieces, that can be operating at any given time in the marsh.

Mitigation Measure AQ-MM-3: Implement All Appropriate BAAQMD Mitigation Measures. The project proponent will implement BAAQMD standard mitigation measures where appropriate and feasible. These measures include:

- Cover all haul trucks transporting soil, sand, or other loose material off-site.
- Remove all visible mud or dirt track-out onto adjacent public roads.
- Minimize idling times either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes as required by the California Airborne Toxic Control Measure. (Cal. Code Regs., tit. 13, § 2485.) Clear signage must be provided for construction workers at all access points.
- Maintain all construction equipment in accordance with manufacturer's specifications. All equipment must be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the restoration project proponent regarding dust complaints. This person must respond and take corrective action within 48 hours. The Air District's phone number also must be visible to ensure compliance with applicable regulations.

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

CEQA FINDING NO. AQ-2

Impact: **Impact AQ-2.** Generation of Construction-Related Emissions in Excess of Draft Bay Area Air Quality Management District (BAAQMD) Standards Associated with Current Management 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 EIS/EIR.

FACTS SUPPORTING THE FINDING(S)

Certain types of existing management activities in the project area would increase in frequency with implementation of the SMP. These activities, including constructing ditches and coring and repairing levees, would involve the use of heavy equipment, which would generate NO_x emissions in excess of the draft BAAQMD construction thresholds. Mitigation Measures AQ-MM-2, and AQ-MM-3, identified above, have been incorporated into the SMP to reduce this impact to a less-than-significant level.

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

CEQA FINDING NO. AQ-4

Impact:		**Impact AQ-4.** Generation of Construction-Related Emissions in Excess of Draft Bay Area Air Quality Management District (BAAQMD) Standards Associated with Restoration and Management Activities Combined.
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 EIS/EIR.

FACTS SUPPORTING THE FINDING(S)

The use of heavy equipment in construction associated with restoration and new and existing management activities would generate NO_x emissions in excess of the draft BAAQMD construction thresholds if all construction activities were to occur concurrently. Mitigation Measures AQ-MM-1, AQ-MM-2, AQ-MM-3, identified above, and AQ-MM-4, identified below, have been incorporated into the SMP to reduce this impact to a less-than-significant level.

Mitigation Measure AQ-MM-4: Limit Construction Activity during Restoration and Management. The project proponent will limit simultaneous restoration and management activity so that the emissions from the equipment being used in the Suisun Marsh Habitat Management, Preservation, and Restoration Plan (SMP) area do not exceed the emissions described in Tables 5.7-13 and 5.7-14 of the SMP, which are based on the anticipated construction equipment in Tables 5.7-8 and 5.7-10 of the SMP. This will ensure that construction emissions do not exceed the draft BAAQMD threshold for nitrogen oxide.

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

B. NOISE

CEQA FINDING NO. NZ-6

Impact: **Impact NZ-6.** Exposure of Noise-Sensitive Land Uses to Noise from Portable Pump Operations.

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 EIS/EIR.

FACTS SUPPORTING THE FINDING(S)

As part of the SMP management activities, pumps would be used to dewater managed wetlands to augment flood and drain practices. Up to eight dewatering pumps may be operated simultaneously, which would result in pumping noise that would exceed a Community Noise Equivalent Level of 70 A-weighted decibels near noise-sensitive land uses. Mitigation Measure NZ-MM-1 has been incorporated into the SMP to reduce this impact to a less-than-significant level.

Mitigation Measure NZ-MM-1: Limit Noise from Pump Operations. The specific project proponent will limit noise from pump operations, where feasible, such that noise from pump operations does not exceed 70 Community Noise Equivalent Level in the surrounding areas. Noise control measures that can be implemented to reduce noise from pumps on adjacent land uses include the following:

- All internal combustion engine-driven equipment will be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines will be strictly prohibited.
- Staging of pump equipment within 275 feet of residences will be avoided. Where equipment must be located within 275 feet of residences, enclosures or barriers will be provided around pumps to reduce noise to acceptable levels.

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

C. UTILITIES AND PUBLIC SERVICES

CEQA FINDING NO. UTL-1

Impact: **UTL-1.** Damage to Pipelines and/or Disruption of Electrical, Gas, or Other Energy Services during Construction or Restoration 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 EIS/EIR.

(2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

FACTS SUPPORTING THE FINDING(S)

Restoration activities implemented as part of the SMP may occur on properties with overhead lines, underground pipelines, or wells. Ground-disturbing and other activities have the potential to damage these facilities or otherwise cause outages and temporarily disrupt service during construction. Mitigation Measures UTL-MM-1 and UTL-MM-2 have been incorporated into the SMP to reduce this impact to a less-than-significant level. However, these mitigation measures are dependent on negotiations with and cooperation from affected utilities, and if this cannot be achieved, the specific project resulting in such impact under the SMP would not be implemented, and therefore impacts would not occur because there would be no specific project.

Mitigation Measure UTL-MM-1: Relocate Overhead Powerlines or Other Utilities That Could Be Affected by Construction. If overhead utilities that could be damaged or affected during construction or restoration activities are present on a property, the specific project proponent will coordinate with the utility owner and/or operator to have the lines protected or relocated to ensure there is no potential for disruption to service or damage to the facilities during or after construction. The area of relocation would be selected to ensure that there are minimal or no sensitive resources that would be affected. Environmental commitments included in Chapter 2 of the Suisun Marsh Habitat Management, Preservation, and Restoration Plan will be incorporated into this activity. Relocation would occur prior to inundation.

Mitigation Measure UTL-MM-2: Avoid Ground-Disturbing Activities within Pipeline Right-of-Way. The specific project proponent will coordinate with the owners and/or operators of pipelines that could be affected by restoration to determine the location of the pipelines and to design restoration to ensure that no ground-disturbing activities occur within the right-of-way. However, ground-disturbing activities associated with the repair or replacement of the pipelines as described in Mitigation Measure UTL-MM-4 would need to occur. These activities are intended to improve the integrity of the pipelines and, therefore, would not result in any additional impacts on the pipeline. Avoidance of these areas for purposes of restoration construction would ensure that no construction-related damage or disruption to services would occur.

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

CEQA FINDING NO. UTL-2

Impact: **UTL-2.** Damage to Utility Facilities or Disruption to Service as a Result of Restoration.

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 EIS/EIR.

(2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

FACTS SUPPORTING THE FINDING(S)

Under the SMP, areas restored to tidal wetlands would change the general nature of properties from seasonally flooded to tidally inundated year-round. This has the potential to affect facilities that were installed prior to inundation that were not designed to exist in a tidally inundated environment. This could result in damage to these facilities. Inundation also could change how owners/operators of these facilities respond to emergencies such as leaks and ruptures. Many of the pipelines in the Marsh are older than their design life, and there is potential for these pipes to leak or rupture. Because of the change in the environment from seasonally inundated to permanently inundated, repair of these leaks or ruptures would require different techniques from those currently employed. These techniques may take longer, resulting in an increased period of service disruption to customers. Damage caused by inundation or an increase in service disruption time as a result of inundation would be a significant impact.

Mitigation Measures UTL-MM-3 and UTL-MM-4 have been incorporated into the SMP to reduce this impact to a less-than-significant level. However, ULT-MM-3 and ULT-MM-4 require the participation of the utility owner and/or operator; therefore, these changes are within the responsibility and jurisdiction of the affected utilities. These mitigation measures are dependent on negotiations with and cooperation from affected utilities, and if this cannot be achieved, the specific project resulting in such impact under the SMP would not be implemented, and therefore impacts would not occur because there would be no specific project.

Mitigation Measure UTL-MM-3: Relocate or Upgrade Utility Facilities that Could be Damaged by Inundation. Pipelines or other utilities that could be damaged by inundation would be relocated or upgraded by the utility owner and/or operator based on a determination by the utility owner and/or operator that inundation could cause damage to the facilities. Relocation would be to areas with minimal or no sensitive resources. Upgrades could include buoyancy controls, reinforcements, or other improvements that would allow the facility to continue its normal operation under the inundated condition. Relocation and/or upgrading would occur prior to inundation of the site.

Mitigation Measure UTL-MM-4: Test and Repair or Replace Pipelines That Have the Potential for Failure. All pipelines have some potential for failure, but as pipes age, this potential may increase. Prior to inundation of a site-specific project, proponents will coordinate with pipeline owners and/or operators to have them test pipelines for leaks or other weaknesses that could result in a failure. Depending on the results of these tests, repairs to or replacement of the existing pipe may be conducted. Various methods for pipe repair and replacement exist, including directional drilling, open trench replacement, and placement of a secondary pipeline around the existing pipeline. All of these treatments would occur within or adjacent to the existing alignment right-of-way. The impacts of this mitigation measure are similar to other restoration impacts on traffic, noise, air quality, biological resources, cultural resources, and soils. Mitigation for impacts of these resources resulting from pipeline repair or replacement along with environmental commitments for major construction activities, described in Chapter 2 of the Suisun Marsh Habitat Management, Preservation, and Restoration Plan, would be implemented to ensure there are no additional effects related to implementing this mitigation measure.

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

CEQA FINDING NO. UTL-5

Impact: **UTL-5.** Damage to Pipelines and/or Disruption of Electrical, Gas, or Other Energy Services during Dredging

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 EIS/EIR.

(2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

FACTS SUPPORTING THE FINDING(S)

It is assumed that implementation of the current managed wetland activities would not result in any disruptions of electrical, gas, or other energy services because these activities occur in the same or similar location each time they are conducted. However, dredging has the potential to disrupt underground facilities in the dredging areas. Figure 7.3-1 of the SMP EIS/EIR depicts the location of each of the pipelines. The location of these pipelines is marked in the Marsh.

To ensure that dredging does not affect pipelines and this impact is less than significant, Mitigation Measure UTL-MM-2, identified previously, will be implemented. However, this mitigation measure is dependent on negotiations with and cooperation from affected utilities, and if this cannot be achieved, the specific project resulting in such impact under the SMP would not be implemented, and therefore impacts would not occur because there would be no specific project.

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

D. CULTURAL RESOURCES

CEQA FINDING NO. CUL-2

Impact: **CUL-2. Damage to or Destruction of Other Known Cultural Resources as a Result of Ground-Disturbing Activities in Lowland and Marsh Areas.**

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 EIS/EIR.

FACTS SUPPORTING THE FINDING(S)

Twenty-four previously recorded cultural resources are located in lowland and marsh areas and therefore could be affected by tidal marsh restoration in these areas (Table 7.7-10 of the SMP EIS/EIR). Under the SMP, restoration activities could damage or destroy these cultural resources by displacing or breaking artifacts or demolishing structural features. With the exception of ISO 20, the cultural resources listed in Table 7.7-10 of the SMP EIS/EIR are considered historic properties and historical resources for the purposes of the SMP.

Implementation of Mitigation Measure CUL-MM-2 would reduce the severity of this impact to a less-than-significant level.

Mitigation Measure CUL-MM-2: Evaluate Previously Recorded Cultural Resources and Fence National Register of Historic Places (NRHP) and California Register of Historical Resources (CRHR)-Eligible Resources prior to Ground-Disturbing Activities. The lead federal or State agency, as applicable, will evaluate previously recorded cultural resources located in restoration areas for NRHP and CRHR eligibility. The lead federal or state agency will ensure that all NRHP- and CRHR-eligible properties are fenced prior to start of ground-disturbing activities; no further action will be required for ineligible properties. The lead federal or State agency will use the maps contained in the site records for the eligible properties to establish site boundaries in the field. The lead federal or state agency will demarcate the site boundaries using t-stakes and orange fencing. Signs marking the fenced area as an environmentally sensitive area will be placed at suitable intervals along the fence. The lead federal or State agency will examine the fencing periodically to ensure that the barrier is not crossed and that it clearly delimits the site boundaries throughout the duration of ground-disturbing activities.

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

CEQA FINDING NO. CUL-6

Impact: **CUL-6. Damage to or Destruction of Shipwrecks or Other Submerged Resources as a Result of Channel Dredging.**

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 EIS/EIR.

FACTS SUPPORTING THE FINDING(S)

A review of the CSLC's California Shipwreck database failed to indicate the presence of known shipwrecks in tidal sloughs in the plan area, although one is reported in Collinsville (Esser 1999:62). Nevertheless, the CSLC's website does not provide information concerning the comprehensiveness of the database or the methods employed in compiling it. The database likely does not include all shipwrecks in the project vicinity but only those reported or whose location could be reconstructed from navigational data. Therefore, channel dredging in project-area tidal sloughs may damage or destroy shipwrecks that have not yet been identified. Historic-era shipwrecks may qualify as historic properties under Section 106 of the National Historic Preservation Act (NHPA) as well as historical resources or unique archaeological resources for the purposes of CEQA.

Implementation of Mitigation Measure CUL-MM-6 would reduce the severity of this impact to a less-than-significant level.

Mitigation Measure CUL-MM-6: Stop Ground-Disturbing Activities, Evaluate the Significance of the Discovery, and Implement Mitigation Measures as Appropriate. In the event that a shipwreck is encountered during channel dredging, all channel-disturbing activities within a minimum of 100 feet of the shipwreck must cease. The State, local, or federal lead agency (as applicable) will require notification and commission of a qualified maritime or underwater cultural resource specialist to inspect the find. The cultural resource specialist will record the location of the shipwreck, the circumstances leading to the inadvertent discovery, the condition and character of the shipwreck, and the degree of damage incurred as a result of channel dredging. The cultural resource specialist also will make recommendations as to the appropriate distance from the shipwreck at which channel dredging may continue. The cultural resource specialist will evaluate the shipwreck to determine whether it constitutes a historic property, historical resource, or unique archaeological resource. The cultural resource specialist and all work associated with documentation and evaluation of shipwrecks must meet the Secretary of the Interior's standards for professional archaeologist or historian (48 FR 44720-44723) and incorporate the National Park Service's guidance concerning the nomination of shipwrecks to the National Register of Historic Places.

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

CEQA FINDING NO. CUL-7

Impact: **CUL-7. Damage to or Destruction of Known Cultural Resources Resulting from Managed Wetland 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 EIS/EIR.

FACTS SUPPORTING THE FINDING(S)

Fifteen previously recorded cultural resources are located in managed wetland areas and, therefore, could be affected by discing, construction of new interior ditches, and construction of new interior levees in these areas (Table 7.7-12 and 7. 7-13 of the SMP EIS/EIR). These activities would damage or destroy these cultural resources by displacing or breaking artifacts or demolishing structural features. Implementation of Mitigation Measure CUL-MM-7 would reduce the severity of this impact to a less-than-significant level.

Mitigation Measure CUL-MM-7: Complete National Historic Preservation Act (NHPA) Section 106 consultation and Prepare and Implement Context Study; Evaluate Previously Recorded Cultural Resources and Fence National Register of Historic Places (NRHP) and California Register of Historical Resources (CRHR)-Eligible Cultural Resources prior to Ground-Disturbing Activities.

NHPA Section 106 Consultation and Context Study

The Suisun Marsh Habitat Management, Preservation, and Restoration Plan (SMP) will be implemented over 30 years in several phases. The current level of detail in the project description is insufficient to discuss project impacts, knowledge of which would influence with certainty the level of inventory effort with respect to the historic landscape. Similar problems with other project effects confound attempts to inventory and evaluate cultural resources in the plan area according to the standard Section 106 process described at 36 CFR 800. Therefore, a context study will be prepared in association with completion of NHPA Section 106 Consultation with the State Historic Preservation Office (SHPO). The contextual study approach will incorporate a geoarchaeological sensitivity model, land use history and evaluation of classes of architectural features, and application of effects per Section 106 Part 800.4(2). Reclamation will assess the effects of the activities to classes of architectural features, rather than individual sites, due to the complexity of the history and interrelationship of the features, as well as the potential for features contributing to the eligibility of other features of the Suisun Marsh water and salinity management system. If deemed appropriate, through coordination with the SHPO and the results of the context study, a Programmatic Agreement (PA) and Historic Properties Treatment Plan (HPTP) will be completed as described below.

PAs and HPTPs are effective ways to accommodate both the program requirements and compliance with the California Environmental Quality Act, the National Environmental Policy Act, and Section 10.6 of the NHPA. Under Section 106, a PA can be used:

i. when effects on historic properties are similar and repetitive or are multi-state or regional in scope;

ii. when effects on historic properties cannot be fully determined prior to approval of an undertaking;

iii. when nonfederal parties are delegated major decision-making responsibilities;

iv. where routine management activities are undertaken at federal installations, facilities, or other land-management units; or

v. where other circumstances warrant a departure from the normal Section 106 process. (36 CFR 800.14[b][1].)

The SMP meets the first four criteria for use of a PA. First, certain effects, particularly under the managed wetland activities (see impact discussion later herein), would be implemented repeatedly. Second, the present Project description is not in a stage of development that is sufficient to complete historic property identification efforts. Third, nonfederal parties likely will have major decisionmaking responsibilities with respect to implementation of the SMP. Finally, routine management (maintenance) activities will be undertaken at federal facilities under the SMP.

If determined appropriate through coordination with the SHPO, Reclamation will prepare a PA, which will identify standards, responsible parties, and timeframes for identifying and resolving effects on historic properties. The purpose of the PA is to document the fact that all responsible parties to the Project understand there will be adverse effects on historic properties and that they agree on methods by which to resolve those adverse effects. The HPTP, on the other hand, would explain just how adverse effects will be resolved and provide a tailored program for historic property identification and treatment for the undertaking. The HPTP would contain research themes for expected property types (prehistoric archaeological properties, historic built environment properties, etc.) to guide all aspects of cultural resources inventories conducted for the undertaking. The research themes would be geared specifically to frame NRHP and CRHR evaluations of identified properties. The PA and HPTP would contain provisions for project activities undertaken by nonfederal entities such as the Department of Water Resources and the Suisun Restoration Conservation District.

Completion of consultation with the SHPO in accordance with the NHPA, and if appropriate, preparation and implementation of the PA and HPTP, will be completed prior to implementation of the SMP. The PA and HPTP will stipulate evaluation procedures for the determination of, and consultation regarding, NRHP and CRHR eligibility. Reclamation will ensure that any eligible properties are fenced prior to commencement of ground-disturbing activities; no further action will be required for

ineligible properties. Reclamation will use the maps contained in the site records for the eligible properties to establish site boundaries in the field. Reclamation will demarcate the site boundaries using t-stakes and orange fencing. Signs marking the fenced area as an environmentally sensitive area will be placed at suitable intervals along the fence. Reclamation will examine the fencing periodically to ensure that the barrier is not crossed and clearly delimits the site boundaries throughout the duration of ground-disturbing activities.

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

E. PUBLIC HEALTH AND ENVIRONMENTAL HAZARDS

CEQA FINDING NO. HAZ-7

Impact: **HAZ-7. Increased Human and Environmental Exposure to Natural Gas and Petroleum.**

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 EIS/EIR.

(2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

FACTS SUPPORTING THE FINDING(S)

Under the SMP, tidal restoration has the potential to occur in areas where natural gas and petroleum pipelines exist. In some instances, these pipelines were installed under conditions in which the areas that would be restored were not tidally inundated. Restoration would result in permanent tidal inundation, which would increase the potential for exposure of natural gas and petroleum to the environment and humans because, should a leak occur, it is more difficult to contain than under existing conditions.

Implementation of Mitigation Measures UTL-MM-2, UTL-MM-3, UTL-MM4, discussed previously under the utilities impacts, would reduce this impact to a less-than-significant level. However, this mitigation measure is dependent on negotiations with and cooperation from affected utilities, and if this cannot be achieved, the specific project resulting in such impact under the SMP would not be implemented, and therefore impacts would not occur because there would be no specific project.

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

II. SIGNIFICANT AND UNAVOIDABLE IMPACTS

The following impacts were determined in the EIS/EIR to be significant and unavoidable:

Impact	Mitigation Measures
A. **Cultural Resources**	CUL-1, CUL-3, CUL-4; CUL-8, CUL-CUM-1

A. CULTURAL RESOURCES

CEQA FINDING NO. CUL-1

Impact: **CUL-1. Damage to Montezuma Slough Rural Historic Landscape as a Result of Ground-Disturbing Activities along Montezuma Slough.**

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 EIS/EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIS/EIR.

FACTS SUPPORTING THE FINDING(S)

Ground-disturbing activities such as levee modifications, conversion of managed wetlands and uplands to managed wetlands, replacement of infrastructure, and Enhancement of vernal pool and riparian habitat may result in damage to Character-defining features of the Montezuma Slough rural historic landscape, inclusive of historic landings, pilings and piers, standing structures, archaeological sites, and shipwrecks.

Implementation of Mitigation Measure CUL-MM-1 would reduce the severity of Impact CUL-1, although not necessarily to a less-than-significant level.

CUL-MM-1: Document and evaluate the Montezuma Slough rural historic landscape, assess Prior to Project proponent impacts, and implement mitigation measures to lessen impacts. No formal evaluation of the Montezuma Slough Rural Historic Landscape to determine resource significance under the National Register of Historic Places criteria and the California Environmental Quality Act has been undertaken to date; Esser (1999) identifies the presence of this rural historic landscape, but this study does not constitute complete documentation of the resource nor does it evaluate its significance. Similarly, the exact locations of the effects of Impact CUL-1 are unknown, as are the frequency and severity of impacts on the Montezuma Slough Rural Historic Landscape. For implementation of specific actions, the State, local, or federal lead agency (as applicable) will conduct an inventory and significance evaluation of the Montezuma Slough Rural Historic Landscape. The inventory and evaluation will be conducted according to the following standards.

- The implementing regulations for Section 106 of the NHPA. (36 Code of Federal Regulations [CFR] 800.4.)
- The State CEQA Guidelines. (Cal. Code Regs., tit. 14, § 15064.5, subd. (a).)
- *Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines*. (48 Federal Register [FR] 44716-44742.)
- *The Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the National Historic Preservation Act* (including the Guidelines for the Treatment of Cultural Landscapes).
- Applicable National Register of Historic Places bulletins and National Park Service technical briefs (Andrus and Shrimpton 1997; Birnbaum 1994; McClelland et al. 1995).

If, based on the findings of the inventory, the Montezuma Slough Rural Historic Landscape does not constitute a historic property or historical resource, implementation of the mitigation measure would reduce the severity of Impact CUL-1 to a less-than-significant level.

On the other hand, if the Montezuma Slough Rural Historic Landscape constitutes a historic property or historical resource, the lead federal through consultation with State Historic Preservation Office and the State lead agency for project implementation, as applicable, will devise measures to reduce the severity of significant effect(s) on the property and will require implementation of the measures prior to implementation of specific restoration activities. Under the California Environmental Quality Act, the lead agency will propose such mitigation measures in an Environmental Impact Report or Mitigated Negative Declaration as appropriate. For federal actions or undertakings, the lead federal agency will resolve any adverse impacts through the provisions of 36 CFR 800.6, which would be codified in a memorandum of agreement and in the proposed action's Environmental Impact Statement and record of decision or Environmental Assessment supporting a Finding of No Significant Impact. Implementation of the mitigation measures would reduce the severity of the impact, although not necessarily to a less-than-significant or non-adverse level.

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

CEQA FINDING NO. CUL-3

Impact: **CUL-3. Damage to Known Cultural Resources as a Result of Tidal Inundation.**

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 EIS/EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities

for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIS/EIR.

FACTS SUPPORTING THE FINDING(S)

Twenty-four previously recorded cultural resources are located in lowland and marsh areas and therefore could be affected by tidal inundation of such areas (Table 7.7-10 of the SMP EIS/EIR). Tidal inundation would create an aqueous environment in the vicinity of these cultural resources, which is known to hasten the degradation of character-defining elements of cultural resources, such as historic buildings and structures and archaeological sites. The effects of prolonged and repeated tidal inundation include structural degradation (oxidation and weakening of metals) and the decay of archaeological site constituents. The loss of or damage to character-defining features of historic properties, historical resources, or unique archaeological resources would constitute a significant adverse effect under NEPA and a significant impact under CEQA. With the exception of ISO 20, the cultural resources listed in Table 7.7-10 of the SMP EIS/EIR are considered historic properties and historical resources for the purposes of the SMP.

Implementation of Mitigation Measure CUL-MM-3 or CUL-MM-4 would reduce Impact CUL-3, but not necessarily to a less-than-significant level.

Mitigation Measure CUL-MM-3: Protect Known Cultural Resources from Damage Incurred by Tidal Inundation through Plan Design (Avoidance). The lead federal or State agency, as applicable, will evaluate the significance of the cultural resources listed in Table 7.7-10 of the Suisun Marsh Habitat Management, Preservation, and Restoration Plan prior to tidal inundation of lands in the restoration areas. For cultural resources that the lead federal or state agency determine are ineligible for listing in the National Register of Historic Places (NRHP) and California Register of Historical Resources (CRHR), no further action would be required. The lead federal or State agency will, on the other hand, avoid damaging NRHP- and CRHR-eligible cultural resources through plan design, using detailed maps of the cultural resources concerned and field reviews to avoid any eligible properties. In the event that implementation of CUL-MM-3 is infeasible, the lead federal or state agency will implement Mitigation Measure CUL-MM-4.

Mitigation Measure CUL-MM-4: Resolve Adverse Effects prior to Construction. Prior to approval and final design of restoration activities, the lead federal or State agency will resolve adverse effects in accordance with Section 106 of the National Historic Preservation Act and the California Environmental Quality Act, as applicable. Such effect resolutions may include Historic American Building Survey/Historic American Engineering Record documentation of historic buildings and structures, data recovery excavations of archaeological sites, preparation of public interpretive documents, and documentation of these actions.

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

CEQA FINDING NO. CUL-4

Impact: **CUL-4. Inadvertent Damage to or Destruction of As-Yet-Unidentified Cultural Resources as a Result of Ground-Disturbing Activities in Restoration Areas.**

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 EIS/EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIS/EIR.

FACTS SUPPORTING THE FINDING(S)

Cultural resource professionals have surveyed little of the plan area, yet 34 previously recorded cultural resources have been identified to date in the plan area and more than 11,000 acres of the plan area are sensitive for the presence of buried prehistoric archaeological resources (Tables 7.7-2, 7.7-5, and 7.7-6 of the SMP EIS/EIR). In the absence of professionally conducted cultural resource inventories, tidal marsh restoration has a high probability of damaging or destroying cultural resources, inclusive of the historic built environment and archaeological resources.

Because of multiple property-access prohibitions and the conceptual nature of the actions in the SMP, and because not all portions of the plan area would be affected by these activities, it is not feasible to conduct a cultural resources survey of the plan area in support of the SMP EIS/EIR. Impact analysis therefore must be conceptual in nature, with detailed impact analyses transpiring during project-specific implementation.

To estimate the likelihood that restoration activities would affect as-yet-unidentified surface and buried cultural resources, Table 7.7-11 of the SMP EIS/EIR compares the extent of restoration activities to the pervasiveness of archaeologically sensitive areas in the plan area. The table treats the plan area regions separately because these regions differ in size, acreage slated for restoration, and archaeological potential. The scope of potential effects on cultural resources is assessed by comparing the amount of restoration within each region to the extent of archaeologically sensitive areas in each region. The amounts given in Table 7.7-11 of the EIS/EIR are expressed as percentages of regional acreage. Region 1 possesses the highest percentage of restoration activities occurring within areas sensitive for the presence of buried archaeological resources (34.8%). The likelihood of restoration activities being situated in areas sensitive for the presence of surface-manifested prehistoric resources is highest in Region 3 (30.4%).

Given the above information, construction in unsurveyed areas likely would result in damage to or destruction of cultural resources that may meet the criteria of historic property, historical resource, or unique archaeological resource. Damage to or

destruction of historical resources and unique archaeological resources constitutes a significant impact under CEQA (Cal. Code Regs., tit. 14, § 15064.5) and an adverse effect under Section 106 of the NHPA.

Implementation of Mitigation Measure CUL-MM-5 would reduce Impact CUL-4, but not necessarily to a less-than-significant level. If no cultural resources are identified in specific restoration areas, or identified resources are not determined to be significant, implementation of CUL-MM-5 would reduce this impact to a less-than-significant level. If significant cultural resources are present in the restoration areas, the post-mitigation significance of Impact CUL-4 would depend on the magnitude of the physical effect. In cases where small portions of the resources are affected by the project, CUL-MM-5 would reduce this impact to a less-than-significant level. In the event of major damage or complete destruction of any significant cultural resources, CUL-MM-5 would reduce the severity of the impact, although it still would be significant.

Mitigation Measure CUL-MM-5: Conduct Cultural Resource Inventories and Evaluations and Resolve Any Adverse Effects. Prior to ground-disturbing activities in restoration areas, the lead federal or State agency, as applicable, will conduct a cultural resources inventory of the restoration areas according to the standards cited in Mitigation Measure CUL-MM-1. Identification methods will include surface surveys and, for areas likely to contain buried archaeological resources, subsurface testing methods commensurate with the scale of ground disturbance. If any cultural resources are determined to be historic properties and ground-disturbing activities are found to result in adverse effects, the lead federal or State agency will resolve the effects in accordance with Section 106 of the National Historic Preservation Act or the California Environmental Quality Act, as applicable.

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

CEQA FINDING NO. CUL-8

Impact: **CUL-8. Damage to or Destruction of As-Yet-Unidentified Cultural Resources in Uninspected Areas as a Result of Other Ground-Disturbing Managed Wetland 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 EIS/EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIS/EIR.

FACTS SUPPORTING THE FINDING(S)

This impact is similar to the impact described for the project under Impact CUL-4. The management activities proposed could result in damage or destruction of unknown cultural resources. In addition, some current activities would be modified and some new activities implemented. The activities and the types of cultural resources likely to be affected by each activity are summarized in Table 7.7-13 of the SMP EIS/EIR.

The affected resource column of Table 7.7-13 identifies the broad class(es) of resources that most likely would be affected by each activity, although project-specific design specifications or work methods could result in effects on other classes of resources. The impacts identified in Table 7.7-13 of the SMP EIS/EIR likely would be significant, although some activities such as replacing riprap on interior and exterior levees could result in non-adverse effects. Construction staging and vehicular movement associated with riprap replacement, however, could result in cultural resource impacts off the levees. Such impacts could be significant.

Implementation of Mitigation Measure CUL-MM-8 would reduce Impact CUL-8, but not necessarily to a less-than-significant level. If significant cultural resources are present in the managed wetland areas, the post-mitigation significance of Impact CUL-8 would depend on the magnitude of the physical effect. In cases where small portions of the resources are affected by the project, Mitigation Measure CUL-MM-8 would reduce this impact to a less-than-significant level. In the event of major damage or complete destruction of any significant cultural resources, Mitigation Measure CUL-MM-8 would reduce the severity of the impact, although it still would be significant. If no cultural resources are identified in specific project areas, or identified resources are not determined to be significant, implementation of Mitigation Measure CUL-MM-8 would reduce this impact to a less-than-significant level.

Mitigation Measure CUL-MM-8: Complete National Historic Preservation Act (NHPA) Section 106 Consultation and Prepare and Implement Context Study for the Suisun Marsh Habitat Management, Preservation, and Restoration Plan (SMP); Conduct Cultural Resources Inventories and Evaluations and Resolve Any Adverse Effects. Prior to implementation of managed wetland activities under the Suisun Marsh Habitat Management, Preservation, and Restoration Plan, Reclamation will complete NHPA Section 106 consultation with the State Historic Preservation Office (SHPO), and prepare a context study as described in CUL-MM-7. If deemed appropriate through coordination with the SHPO and the results of the context study, a Programmatic Agreement (PA) and Historic Properties Treatment Plan (HPTP) will be completed. These documents will clearly identify the lead agency responsible for PA/HPTP compliance for each class of activity (for instance, Reclamation for Preservation Agreement Implementation funded projects), as well as historic properties identification methods. If any cultural resources are determined to be historic properties and ground-disturbing activities are found to result in adverse effects, the lead agency for the subject activities will resolve the effects in accordance with the PA and HPTP.

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

CEQA FINDING NO. CUL-CUM-1

Impact: **CUL-CUM-1. Cumulative Cultural Resource Impacts.**

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 EIS/EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIS/EIR.

FACTS SUPPORTING THE FINDING(S)

The SMP would result in significant impacts on numerous cultural resources, including the Montezuma Hills Rural Historic Landscape. Impacts on the Montezuma Hills Rural Historic Landscape are especially consequential, as several constituent features, some of which are likely to have individual significance, would be affected by the SMP. Taken together with other related projects, the SMP's impacts on cultural resources would contribute to cumulative impacts on cultural resources.

Implementation of Mitigation Measures CUL-MM-1 through CUL-MM-8, however, would reduce the SMP's contribution to these cumulative impacts, although not necessarily to below the level of significant. As such, this is a significant impact and the SMP's contribution is considerable. The character-defining features of the Montezuma Slough Rural Historic Landscape and other cultural resources identified are extensive and comprise numerous elements within the project area. Therefore, there is no technologically feasible mitigation to preserve the character-defining features of the entire landscape or all of the significant cultural resources that may be identified under CUL-MM-1 to CUL-MM-8 during the restoration and management activities proposed in the SMP or other alternatives. Even the No Action Alternative could result in character defining-feature impacts through implementation of tidal marsh restoration that may be accomplished through other programs, such as through CALFED Proposition 204 the Bay Delta Conservation Plan (BDCP), or through mitigation obligations. These actions potentially could affect the character-defining features identified above. Therefore, even with the implementation of all feasible mitigation, Mitigation Measures CUL-MM-1 through CUL-MM-8, the SMP’s impacts on cultural resources are cumulatively considerable.

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

3.0 STATEMENT OF OVERRIDING CONSIDERATIONS

I. INTRODUCTION

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

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

Although the CDFW and CSLC have imposed mitigation measures to reduce impacts, impacts remain that are considered significant after application of all feasible mitigation. Significant impacts of the approved Project fall under one resource area: Cultural Resources (see Table 1). These impacts are specifically identified and discussed in more detail in the CSLC's CEQA Findings and in CDFW's Final EIS/EIR. While the CSLC has required all feasible mitigation measures, these impacts remain significant for purposes of adopting this Statement of Overriding Considerations.

Table 1 – Significant and Unavoidable Impacts Identified for the Approved Project

Impact	Impact Description	Proposed Mitigation
Cultural Resources		
CUL-1. Damage to Montezuma Slough Rural Historic Landscape as a Result of Ground-Disturbing Activities along Montezuma	Ground-disturbing activities such as levee modifications, conversion of managed wetlands and uplands to managed wetlands, replacement of infrastructure, and enhancement of vernal pool and riparian habitat may result in damage to character-defining features of the Montezuma Slough Rural Historic Landscape. Character-defining features of this historic district include the slough levees, landscaping elements that define existing and former	Implementation of Mitigation Measure (MM) CUL-MM-1 would reduce the severity of Impact CUL-1, although not necessarily to a less-than-significant level.

Impact	Impact Description	Proposed Mitigation
Slough	historic landings, pilings and piers, standing structures, archaeological sites, and shipwrecks. Damage to or the loss of one or more character-defining elements of the district may constitute an adverse impact on the resource as a whole. Such impacts may be restricted in scope; the impact need not be at an extensive, "landscape" level to constitute an adverse impact on the Montezuma Slough Rural Historic Landscape but may affect individual elements that contribute to the landscape. The Montezuma Slough Rural Historic Landscape is potentially eligible for listing in the NRHP and CRHR and therefore is a likely candidate for designation as a historic property under Section 106 of the NHPA and a historical resource for the purposes of CEQA. Therefore, the loss of or damage to character-defining features of this district, would constitute a potentially significant impact.	
CUL-3. Damage to Known Cultural Resources as a Result of Tidal Inundation	Twenty-four previously recorded cultural resources are located in lowland and marsh areas and therefore could be affected by tidal inundation of such areas (Table 7.7-10 of the SMP EIS/EIR). Tidal inundation would create an aqueous environment in the vicinity of these cultural resources, which is known to hasten the degradation of character-defining elements of cultural resources, such as historic buildings and structures and archaeological sites. The effects of prolonged and repeated tidal inundation include structural degradation (oxidation and weakening of metals) and the decay of archaeological site constituents. The loss of or damage to character-defining features of historic properties, historical resources, or unique archaeological resources would constitute a significant adverse effect under NEPA and a significant impact under CEQA. With the exception of ISO 20, the cultural resources listed in Table 7.7-10 of the SMP EIS/EIR are considered historic	Implementation of MM CUL-MM-3 or CUL-MM-4 would reduce Impact CUL-3, but not necessarily to a less-than-significant level.

Impact	Impact Description	Proposed Mitigation
	properties and historical resources for the purposes of the SMP.	
CUL-4. Inadvertent Damage to or Destruction of As-Yet-Unidentified Cultural Resources as a Result of Ground-Disturbing Activities in Restoration Areas	Cultural resource professionals have surveyed little of the plan area, yet 34 previously recorded cultural resources have been identified to date in the plan area and more than 11,000 acres of the plan area are sensitive for the presence of buried prehistoric archaeological resources (Tables 7.7-2, 7.7-5, and 7.7-6 of the SMP EIS/EIR). In the absence of professionally conducted cultural resource inventories, tidal marsh restoration has a high probability of damaging or destroying cultural resources, inclusive of the historic built environment and archaeological resources.	Implementation of MM CUL-MM-5 would reduce Impact CUL-4, but not necessarily to a less-than-significant level. If no cultural resources are identified in specific restoration areas, or identified resources are not determined to be significant, implementation of CUL-MM-5 would reduce this impact to a less-than-significant level. If significant cultural resources are present in the restoration areas, the post-mitigation significance of Impact CUL-4 would depend on the magnitude of the physical effect. In cases where small portions of the resources are affected by the project, CUL-MM-5 would reduce this impact to a less-than-significant level. In the event of major damage or complete destruction of any significant cultural resources, CUL-MM-5 would reduce the severity of the impact, although it still would be significant.
CUL-8. Damage to or Destruction of As-Yet-Unidentified Cultural Resources in Uninspected Areas as a Result of Other Ground-Disturbing Managed Wetland Activities	The management activities proposed could result in damage or destruction of unknown cultural resources. Although some activities such as replacing riprap on interior and exterior levees could result in non-adverse effects, construction staging and vehicular movement associated with riprap replacement could result in cultural resource impacts off the levees. Such impacts could be significant.	Implementation of MM CUL-MM-8 would reduce Impact CUL-8, but not necessarily to a less-than-significant level. If significant cultural resources are present in the managed wetland areas, the post-mitigation significance of Impact CUL-8 would depend on the magnitude of the physical effect. In cases where small portions of the resources are affected by the project, MM CUL-MM-8 would reduce this impact to a less-than-significant level. In the event of major damage or complete destruction of any significant cultural resources, MM CUL-MM-8 would reduce the severity of the impact, although it still would be significant.
CUL-CUM-1. Cumulative Cultural Resource Impacts	The SMP would result in significant impacts on numerous cultural resources, including the Montezuma Hills Rural Historic Landscape. Impacts on the Montezuma Hills Rural Historic	Implementation of MMs CUL-MM-1 through CUL-MM-8 would reduce the SMP's contribution to these cumulative impacts, although not necessarily to below the level of

Impact	Impact Description	Proposed Mitigation
	Landscape are especially consequential, as several constituent features, some of which are likely to have individual significance, would be affected by the SMP. Taken together with other related projects, the SMP's impacts on cultural resources would contribute to cumulative impacts on cultural resources.	significant. As such, this is a significant impact and the plan's contribution is considerable. The character-defining features of the Montezuma Slough Rural Historic Landscape and other cultural resources identified are extensive and comprise numerous elements within the project area. Therefore, there is no technologically feasible mitigation to preserve the character-defining features of the entire landscape or all of the significant cultural resources that may be identified under CUL-MM-1 to CUL-MM-8 during the restoration and management activities proposed in the SMP or other alternatives. Even the No Action Alternative could result in character defining-feature impacts through implementation of tidal marsh restoration that may be accomplished through other programs, such as through CALFED Bay-Delta Program Proposition 204, the Bay Delta Conservation Plan, or mitigation obligations. These actions potentially could affect the character-defining features identified above. Although inclusion of MMs CUL-MM-1 through CUL-MM-8 would reduce impacts to cultural resources, impacts would be cumulatively considerable as implementation of additional MMs to reduce cumulative impacts to a level of insignificance is not feasible.

II. 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 three potentially feasible alternatives analyzed in the EIS/EIR represent a reasonable range of potentially feasible alternatives that reduce one or more significant impacts of the Project. These alternatives include:

1) No Action Alternative;
2) Alternative B; and
3) Alternative C.

As presented in the EIS/EIR, the alternatives were described and compared with each other and with the proposed Project.

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. Based on the analysis contained in the EIS/EIR, there is no clear environmentally superior alternative to the proposed Project that is capable of achieving the Project objective. No one alternative would eliminate the significant and adverse impacts of the proposed Project.

The CDFW independently reviewed and considered the information on alternatives provided in the EIS/EIR and in the record. The EIS/EIR reflects the CDFW's independent judgment as to alternatives. The CDFW found that the Project provides the best balance between the Project goals and objectives and the Project's benefits. The three CEQA alternatives proposed and evaluated in the EIS/EIR were rejected as being infeasible for the following reasons provided in the CDFW's Findings Regarding Alternatives (incorporated herein by reference).

1) No Action Alternative

The No Action Alternative is what is reasonably expected to be the conditions in the foreseeable future should the SMP not be implemented. Under the No Action Alternative, major restoration would not occur in the Marsh and managed wetland activities would be substantially limited or suspended. Although the CALFED Record of Decision calls for tidal wetland restoration in the Marsh and other current planning efforts include restoration in the Marsh, it is not certain that substantial additional restoration would occur under the No Action Alternative. Implementation of tidal marsh restoration may be accomplished through other programs, such as through CALFED Proposition 204 or BDCP, or through mitigation obligations. There is a wide range of potential outcomes in the Marsh and there are currently no adopted plans for restoration. It is assumed for purposes of the No Action Alternative that approximately 700 acres could be restored. Additionally, any levee breaches that occur in inaccessible areas may not be repaired, and passive restoration would occur in those areas. Additional restoration would be difficult to achieve because of the absence of a framework to protect existing managed wetlands. If some landowners in the Marsh

were able to secure individual permits, diversion restrictions would continue to be enforced, and programs to encourage landowners to manage properties to protect habitat values for listed species would continue to be implemented. Additionally, programs to control managed wetland vegetation would continue. Installation of new water diversions would continue to be minimized, and fish screens would continue to be installed on existing diversions where feasible. Existing programs to control nonnative species and protect sensitive wetlands from the adverse effects of grazing would continue to be implemented. The extent to which regulatory mechanisms would limit managed wetland operations and maintenance is speculative, but it is assumed there would be substantial changes in management of the Marsh. Existing U.S. Department of the Interior, Bureau of Reclamation (Reclamation) and California Department of Water Resources (DWR) mitigation facilities and salinity stations would be repaired and maintained, but at a much slower rate due to the need to complete project specific environmental compliance and implementation of resulting mitigation measures.

Finding (No Action Alternative)

The No Action Alternative does not meet most of the plan purposes/objectives. Levee integrity would continue to degrade and recreational opportunities would decrease as a result of no major restoration or management of wetlands. Maintenance and operations of duck clubs in the Marsh would be suspended, and therefore the efficiency of flooding and draining managed wetlands would not be maximized or improved. The suspension of draining low dissolved oxygen (DO) water from some managed wetlands into sloughs has the potential to improve water quality in some areas under certain conditions. However, there would be little if any overall improvement in habitat for waterfowl, fish, shorebirds, and other species because managed wetlands could not be operated to their full potential, and there still would be limited tidal marsh habitat available for terrestrial and aquatic species. Additionally, given the difficulty in securing permits to dredge, and with continued difficulties in importing materials for levee repair combined with a lack of a reliable funding source for levee repairs, it is likely that the No Action Alternative would result in degradation of managed wetland habitat. This degradation would result from the continued use of materials taken from within managed wetland areas to maintain levees, which would reduce drainage efficiency and increase subsidence. Additionally, it is possible that naturally breached levees would not be repaired, resulting in a loss of managed wetland habitat. This loss of managed wetlands would result in an increase in tidal wetland habitat and local, and potentially regional, changes in salinity that may adversely affect drinking water quality, depending on the extent and location of the loss. Therefore, habitat, levees, public and private land use, and water quality would continue to degrade under the No Action Alternative. The No Action Alternative would substantially reduce or eliminate the significant and unavoidable impacts of the SMP; however, none of the SMP objectives would be met.

2) Alternative B

Alternative B would restore fewer acres to tidal wetland, leaving more area subject to managed wetland activities, and includes the following actions:

- restoring 2,000 to 4,000 acres of marsh to fully functioning, self-sustaining tidal wetlands and protecting and enhancing existing tidal wetland acreage; and
- enhancing the remaining 46,000 to 48,000 acres of managed wetlands levee stability and flood and drain capabilities.

Finding (Alternative B)

Alternative B does not reduce any of the significant and unavoidable impacts compared to the SMP. However, the geographic extent of the potential restoration effects would be less because less area in the Marsh would be affected by Alternative B, whereas the potential for effects related to managed wetland activities would be greater. Alternative B would result in fewer desired results associated with habitat/ecological processes, public/private land use, levee integrity, water quality, and recreation. In terms of habitat/ecological processes, Alternative B offers the greatest benefits for managed wetland species and the least benefits for tidal species. Compared to both existing conditions and the SMP, there would be more managed wetland activities and more of the resultant improvements in habitat for reliant species. However, there would be approximately 2,000 fewer acres of tidal wetlands in the Marsh compared to the SMP, and this alternative would not fully achieve the desired results related to ecological processes. Under Alternative B, there would be more hunting, bird watching, and other land-based recreation opportunities; however, there would be less fishing, as there would be less navigable water and public access. Therefore, this alternative would not fully achieve the desired results for public and private land uses or recreation. Under Alternative B, there would be less restoration, and therefore more levees requiring maintenance would remain intact. As such, levee system integrity would require more resources to maintain the same level of integrity. Restoration would result in a reduction in total acres of managed wetlands, reducing managed wetland discharges, which can cause low dissolved oxygen (DO) and other water quality issues in some locations under certain circumstances. Alternative B would result in the preservation of more managed wetlands, and therefore improvements in water quality would be less.

Therefore, Alternative B has the potential to substantially reduce or eliminate the significant and unavoidable impacts of the SMP related to restoration, such as impacts on cultural resources as discussed above, but could result in an increase in significant and unavoidable effects related to managed wetland activities.

3) Alternative C

Alternative C would restore more acres to tidal wetlands, leaving less area subject to managed wetland activities, and includes the following actions:

- restoring 7,000 to 9,000 acres of the Marsh to fully functioning, self-sustaining tidal wetlands and protecting and enhancing existing tidal wetlands acreage; and enhancing the remaining 42,000 to 44,000 acres of managed wetlands levee stability and flood and drain capabilities.

Finding (Alternative C)

Alternative C does not reduce any of the significant and unavoidable impacts compared to the SMP. However, the geographic extent of the potential restoration effects would be greater because more area in the Marsh would be affected by Alternative C, whereas the potential for effects related to managed wetland activities would be less. Alternative C would result in fewer desired results associated with habitat/ecological processes, public/private land use, levee integrity, water quality, and recreation. Alternative C includes the greatest amount of restoration, which is environmentally preferred for species that use tidal habitats. However, it also results in the greatest loss of managed wetlands, making it the least environmentally preferred for species that use these habitats. The remaining managed wetlands/duck clubs would be subject to managed wetland activities, leading to higher quality habitat for waterfowl, shorebirds, and other species that depend or rely on managed wetlands. It may be difficult to meet the goals related to habitats and ecological processes for species that depend on or use managed wetlands under this alternative, especially for species that do not use tidal wetland habitats. Under Alternative C, there would be less hunting, bird watching, and other land-based recreation opportunities and more fishing, as there would be more navigable water and public access. There would be more restoration, and therefore fewer levees requiring maintenance would remain intact. As such, fewer resources would be required to maintain the same level of integrity. Restoration would result in a reduction in total acres of managed wetlands, reducing managed wetland discharges, which can cause low DO and other water quality issues in some locations under certain circumstances. Therefore, Alternative C would result in the preservation of fewer managed wetlands, and therefore potentially greater improvements in DO conditions. However, increased restoration, depending on the exact location, breach size, and design, has the potential to make meeting the State Water Resources Control Board Water Right Decision 1641/Suisun Marsh Preservation Agreement salinity objectives for the Marsh more difficult. Therefore, Alternative C has the potential to substantially reduce or eliminate the significant and unavoidable impacts of the SMP related to managed wetlands but could result in an increase in significant and unavoidable effects related to restoration activities, such as a greater impact on a larger area with cultural resources as discussed above.

The CSLC in its independent judgment concurs with CDFW's Findings regarding alternatives and selection of the proposed Project over the three alternatives analyzed in the EIS/EIR. Based upon the objectives identified in the Final EIS/EIR and the detailed mitigation measures imposed upon the Project, the CSLC has determined that the Lease 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:

- Social Benefits. Improvements in managed wetlands along with increasing the area of navigable waters in the Marsh through restoration would improve public and private land use opportunities, including fishing, bird watching, and other activities such as non-consumptive recreation. The conversion of privately managed wetlands to public tidal wetlands will provide increased public hunting opportunities. SMP-related improvements will improve the overall health and social value of other public trust resources that depend on the state's surface waters, including fish, wildlife, and native vegetation.
- Other Benefits – Biological. The SMP rehabilitates the natural processes where feasible in Suisun Marsh to support more fully, with minimal human intervention, natural aquatic and associated terrestrial biotic communities and habitats, in ways that favor native species of those communities. Restoration of tidal wetlands in the Marsh would contribute to the recovery of special-status wildlife species, including small mammals (salt marsh harvest mouse, Suisun shrew), birds (California clapper rail, California black rail, Suisun song sparrow, salt marsh common yellowthroat), fish (salmonids, Delta smelt, longfin smelt, Sacramento splittail, green sturgeon), and plants (soft bird's-beak, Suisun thistle, Delta tule pea). Tidal wetland restoration also will be designed to accommodate sea level rise more easily than managed wetlands because the gradual elevations within tidal wetlands will not require the same level of levee maintenance and will provide an area for sediment accretion. Restoration of tidal wetlands would be implemented over the 30-year SMP timeframe, and benefits from individual projects would change as elevations rise, vegetation becomes established, and vegetation communities shift over time from low marsh to high marsh conditions. All restored areas are most likely to provide different types and magnitude of benefits at any given period after restoration and at different geographic locations, as local and regional conditions will determine the salinity regime, plant communities, and rate of sedimentation.
- Other Benefits – Flood Control. The majority of Suisun Marsh, including wildlife habitat, is situated at or below mean tide elevation. Levees serve as the primary flood protection for Suisun Marsh lands, infrastructure, and natural resources. Exterior levees are used in conjunction with interior levees, ditches, and water control structures to retain, exclude, and direct water. Many of the managed wetland activities are intended to aid in the maintenance of the existing levee system. Without the SMP, these activities may not be implemented and flood control could be compromised. Additionally, restoration activities under the SMP would require some amount of levee improvements to convert interior levees to exterior levees. These improvements would ensure that adjacent properties, including natural resources, are adequately protected from flooding, and improved levee stability would reduce the risk of catastrophic levee failure. Additionally, the opportunities to design levees in restoration areas to serve as habitat through creating benches, using vegetation as buffers for levees, and creating gently sloping levees, is anticipated to reduce the need for robust maintenance of these levees and/or the use of non-biological protection, such as riprap.

III. CONCLUSION

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

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

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