Resolution No. R3-2021-0039
Attachment B

Findings of Fact of the California Regional Water Quality Control Board, Central Coast Region as a Lead Agency under the California Environmental Quality Act for the General Waste Discharge Requirements for Discharges from Irrigated Lands in the Central Coast Region

April 2021

I. INTRODUCTION

The California Environmental Quality Act (CEQA) (Pub. Res. Code § 21000 et seq.) and Guidelines for the Implementation of CEQA (Cal. Code Regs, tit. 14, § 15000 et seq.; hereafter CEQA Guidelines), provide that no public agency shall approve or carry out a project for which an environmental impact report (EIR) has been certified when one or more significant environmental effects of the project have been identified, unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. (CEQA Guidelines, § 15091, subd. (a); hereafter Section 15091(a)). These findings explain the disposition of each of the significant effects, including those that will be less than significant with mitigation. The findings must be supported by substantial evidence in the record.

There are three possible findings under Section 15091(a). The public agency must make one or more of these findings for each significant effect. The Section 15091(a) findings are:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final Environmental Impact Report for the General Waste Discharge Requirements for Discharges from Irrigated Lands in the Central Coast Region.

2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

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

These findings are also intended to comply with the requirement that each finding by the Central Coast Water Board be supported by substantial evidence in the administrative record of proceedings, as well as accompanied by a brief explanation of the rationale for each finding. (Cal. Code Regs., tit. 14, § 15091, subds. (a), (b); see also Discussion following CEQA Guidelines, § 15091.) To that end, these findings provide the written, specific reasons supporting the Central Coast Water Board's decision under CEQA to implement the Proposed Project described in the EIR (SCH No. 2018021050). These findings are not merely informational, but rather constitute obligations that will become binding when the Central Coast Water Board approves the Proposed Project.

II. MITIGATION MONITORING AND REPORTING PROGRAM

Consistent with CEQA and the CEQA Guidelines, the Central Coast Water Board (CCWB) has prepared a mitigation monitoring and reporting program (MMRP) for the General Waste Discharge Requirements for Discharges from Irrigated Lands in the Central Coast Region. (Pub. Resources Code, § 21081.6, subd. (a)(1); CEQA Guidelines, § 15097.) The Central Coast Water Board will use the MMRP to track compliance with mitigation measures imposed by the Central Coast Water Board.

III. FINDINGS

The Central Coast Water Board makes the following findings discussing the significant direct, indirect, and cumulative effects of the project to be adopted, which is referred to throughout as General Waste Discharge Requirements for Discharges from Irrigated Lands in the Central Coast Region, or Agricultural Order 4.0. The Central Coast Water Board has analyzed the environmental effects of the Proposed Project as shown in the final EIR. (CEQA Guidelines, § 15091.) The Central Coast Water Board's specific findings for potentially significant impacts and how the impacts may be reduced by the MMRP are set forth in the final EIR.

The following findings address each of Agricultural Order 4.0's significant effects in their order of appearance in the final EIR. For the purposes of CEQA Guidelines, Section 15091, the documents and other materials that constitute the record of proceedings upon which the Central Coast Water Board based its decision are held by the Central Coast Water Board, 895 Aerovista Place, Suite 101, San Luis Obispo, CA. 93401-7906.

LESS THAN SIGNIFICANT IMPACTS WITH MITIGATION

The final EIR identified potentially significant environmental impacts that would result from implementation of the Proposed Project, absent mitigation, for the following effects. Having considered the whole of the record, including comments received during the public review process, the Central Coast Water Board has eliminated or substantially reduced all significant environmental effects through the adoption of various mitigation measures and makes the following findings:

Impact BIO-1

Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service.

Finding

Changes or alterations have been required in, or incorporated into, the Proposed Project that avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

Rationale

It is possible that under Agricultural Order 4.0, areas outside of existing irrigated agricultural lands could be disturbed by permit enrollees during the installation of some management practices, such as denitrifying bioreactors or sediment basins installed on the periphery of fields (downgradient) to capture runoff. Special-status plant or animal species could potentially be present in these areas and could be substantially and adversely affected by construction activities. This could be a significant impact. **Mitigation Measure BIO-1** would require that permit enrollees evaluate their specific situation and use the least impactful management practices to meet the water quality requirements of Agricultural Order 4.0. If practices affecting are necessary, implementation of additional avoidance and minimization measures would be required. Implementation of this mitigation measure would reduce this potential impact to a level that is less than significant.

Construction activities under Agricultural Order 4.0 also could indirectly affect species through erosion and sedimentation, or accidental releases or improper management of hazardous materials. **Mitigation Measure HWQ-1** would require construction best management practices (BMPs) for erosion control for those activities not subject to a grading permit or the Construction General Permit, which would reduce this potential impact. Further, **Mitigation Measure HAZ-1** would require implementation of spill prevention, control, and countermeasures, which would avoid or minimize any potential impacts to special-status species from accidental releases of hazardous materials used in construction activities.

The mitigation measures are described following the Findings.

Impact BIO-2

Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service.

Finding

Changes or alterations have been required in, or incorporated into, the Proposed Project that avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

Rationale

While the majority of activities under Agricultural Order 4.0 would take place within existing cultivated areas, it is possible that some management practices (e.g., sediment basins, denitrifying bioreactors, vegetated filter strips, etc.) could be installed on the periphery of irrigated agricultural fields where riparian vegetation or other habitat may exist. In these cases, some existing habitat could be displaced. **Mitigation Measure BIO-1,** which is described following the Findings, would reduce potential impacts by requiring that Agricultural Order 4.0 enrollees avoid sensitive resources to the extent feasible.

During construction of management practices involving ground disturbance, there is potential for adverse effects on biological resources, including riparian habitat, through erosion and sedimentation caused by operation of heavy construction equipment, or accidental releases or improper management of hazardous materials used during construction (e.g., fuel, oil, lubricants, etc.). If eroded soils or leaked hazardous materials were to wash off site to riparian areas or sensitive natural communities adjacent to agricultural areas, this could adversely impact these biological resources.

Management practices that would disturb more than 1 acre of land would be subject to the Construction General Permit, including preparation and implementation of a stormwater pollution prevention plan (SWPPP), which would include erosion control and hazardous materials management measures. Certain management practices also may be subject to local grading ordinances, which would typically require erosion control measures. For construction activities that are not subject to either the Construction General Permit or local grading ordinances, implementation of **Mitigation Measures HWQ-1 and HAZ-1**, which are described following the Findings, would avoid or minimize potential impacts to water quality and biological resources by requiring erosion control and hazardous materials spill prevention, control, and counter-measures.

Construction activities for certain types of management practices would have potential to cause adverse impacts on riparian habitat and sensitive natural communities, but compliance with existing laws and regulations and/or implementation of applicable mitigation measures would reduce these potential impacts.

Impact BIO-3

Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.

Finding

Changes or alterations have been required in, or incorporated into, the Proposed Project that avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

Rationale

Construction and installation of certain management practices involving ground disturbance (e.g., sediment basins, denitrifying bioreactors, runoff management features, etc.) could result in adverse effects on wetlands due to erosion/sedimentation and improper management of hazardous materials. Compliance with existing laws and regulations and implementation of **Mitigation Measures HWQ-1 and HAZ-1**, which are described following the Findings, would reduce these potential impacts to a level that is less than significant.

Impact BIO-4

Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.

Finding

Changes or alterations have been required in, or incorporated into, the Proposed Project which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

Rationale

Construction activities for certain management practices (e.g., sediment basins, bioreactors, vegetated filter strips), depending on the location of such facilities on individual ranches, could impact spawning habitat in adjacent waterbodies due to discharge of fine sediments or hazardous materials, which would be a significant impact. Implementation of **Mitigation Measures HWQ-1 and HAZ-1**, which are described following the Findings, would prevent these adverse impacts on spawning habitat.

Impact BIO-6

Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.

Finding

Changes or alterations have been required in, or incorporated into, the Proposed Project which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

Rationale

In general, habitat conservation plans do not cover activities on existing irrigated agricultural land or immediately adjacent rural or grassland vegetation areas; however, they may cover streams and riparian areas that may be indirectly affected by discharges from agricultural lands. Construction and installation of certain reasonably foreseeable management practices could reduce the volume of water discharged from irrigated agricultural lands, thus potentially reducing flows in adjacent surface waterbodies.

The potential construction-related impacts would be temporary and would be less than significant given compliance with existing laws and regulations and implementation of **Mitigation Measures BIO-1, HWQ-1, and HAZ-1**, which are described following the Findings. As such, these activities would not conflict with the adopted habitat conservation plans or natural community conservation plan in the central coast region. Therefore, this impact would be less than significant with mitigation.

Impact CUL-1

Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines, Section 15064.5; or cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.

Finding

Changes or alterations have been required in, or incorporated into, the Proposed Project which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

Rationale

Under Agricultural Order 4.0, construction and installation of management practices that would involve new ground disturbance and excavation could potentially cause damage to, disrupt, or otherwise adversely affect buried historical or pre-historic and unique archaeological resources if they are present. It is also possible that built resources may be physically demolished, destroyed, relocated, or altered to implement a management practice under Agricultural Order 4.0. If the structure(s) to be affected were listed or eligible for listing in the California Register of Historic Resources (CRHR), this could result in a significant impact.

Implementation of **Mitigation Measure CUL-1,** which is described following the Findings, would address these potential impacts by requiring that Agricultural Order 4.0 enrollees inventory and evaluate potential resources that may be present within the proposed disturbance area, and employ avoidance and/or minimization measures for any significant resources. Provisions must also be made by Agricultural Order 4.0 enrollees for the accidental discovery of unknown buried cultural resources. Given implementation of this mitigation measure for applicable activities, this impact would be less than significant with mitigation.

Impact CUL-2

Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.

Finding

Changes or alterations have been required in, or incorporated into, the Proposed Project which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

Rationale

Implementation of Agricultural Order 4.0, such as the construction of management practices, in areas with sedimentary rock formations have the potential to uncover paleontological resources. If paleontological resources were uncovered and proper protocols were not followed, this could result in a significant impact. Implementation of **Mitigation Measure CUL-2**, which is described following the Findings, would reduce these potential impacts to paleontological resources to a level that is less that significant with mitigation.

Impact CUL-3

Disturb any human remains, including those interred outside of dedicated cemeteries.

Finding

Changes or alterations have been required in, or incorporated into, the Proposed Project which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

Rationale

Activities conducted under Agricultural Order 4.0 that involve ground disturbance have the potential, although unlikely, to disturb previously undocumented human remains. Human remains must be addressed in accordance with State law regardless of their context in disturbed or undisturbed ground. If human remains were uncovered during ground-disturbing activities, this could result in a significant impact.

Implementation of **Mitigation Measures CUL-1 and CUL-3,** the latter of which would require compliance with existing state laws pertaining to the discovery of human remains (e.g., Health and Safety Code Section 7050.5), would reduce such impacts to a less-than-significant level. As such, this impact would be less than significant with mitigation. The mitigation measures are described following the Findings.

Impact HAZ-2

Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

Finding

Changes or alterations have been required in, or incorporated into, the Proposed Project which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

Rationale

Construction and installation of certain reasonably foreseeable management practices under Agricultural Order 4.0 would likely involve the use and temporary on-site storage hazardous materials, such as fuel, oil, lubricant, and other materials commonly used in construction equipment. It is possible that these hazardous materials could leak from construction equipment or spill from storage containers, which, in the absence of appropriate countermeasures, could create a significant hazard to the public or the environment.

Some management practices that would disturb greater than 1 acre of land and not otherwise exempt would be subject to the Construction General Permit. The Construction General Permit requires preparation and implementation of a SWPPP providing hazardous materials spill prevention measures and countermeasures in the event that a spill occurs, and implementation of BMPs for hazardous materials storage. Compliance with the Construction General Permit and implementation of a SWPPP would prevent significant impacts associated with accidental release of hazardous materials during construction of management practices that are not solely for agricultural purposes and that disturb greater than 1 acre of land under Agricultural Order 4.0.

Management practices that disturb less than 1 acre of land or that are solely for agricultural purposes may not be subject to the Construction General Permit. These activities may still require hazardous materials use and storage, which could leak or spill and thereby expose the public or the environment to hazards. Mitigation Measure HAZ-1, which is included following the Findings, describes measures that Agricultural Order enrollees or their contractors could implement so as to minimize potential for hazards

due to accidental releases of hazardous materials. Implementation of this mitigation measure would minimize potential impacts to a less-than-significant level.

Impact HAZ-4

Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Section 65962.5 of the Government Code and, as a result, create a significant hazard to the public or the environment.

Finding

Changes or alterations have been required in, or incorporated into, the Proposed Project which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

Rationale

In general, hazardous materials contamination and cleanup sites would not be expected to occur on irrigated agricultural lands; however, it is possible that hazardous materials contamination could be located on irrigated lands or in areas where management practices could be implemented (e.g., adjacent to existing fields) under Agricultural Order 4.0. In such situations, activities conducted under Agricultural Order 4.0 (e.g., construction or installation of management practices involving excavation) could potentially encounter contaminated soils or materials, which could expose construction workers, the public, or the environment to significant hazards.

Implementation of **Mitigation Measure HAZ-2**, which is described following the Findings, would minimize potential for adverse impacts from siting of management practices on existing hazardous materials sites. Given implementation of this mitigation measure, this impact would be less than significant with mitigation.

Impact HWQ-1

Violate any water quality standards or waste discharge requirements, or otherwise substantially degrade surface water or groundwater quality.

Finding

Changes or alterations have been required in, or incorporated into, the Proposed Project which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

Rationale

Implementation and construction of management practices under Agricultural Order 4.0 could potentially result in water quality impacts. Many of the reasonably foreseeable management practices that Agricultural Order 4.0 enrollees may implement to comply

with Agricultural Order 4.0 would involve construction activities and ground disturbance. These activities could loosen soils and allow for erosion and off-site discharge of sediments to occur if proper precautions are not taken (e.g., a precipitation event washing away loose soils/sediments to nearby waterbodies). The construction activities also may involve use of heavy construction equipment, which may use and on-site storage of hazardous materials (e.g., fuel, oil, lubricant, etc.) in its operation. If such materials were to spill or leak from equipment, it could result in adverse impacts on surface water and groundwater quality, including adverse effects on beneficial uses and potential violation of water quality standards.

Where installation of individual management practices would disturb greater than 1 acre of land and the land disturbance is not related solely to agricultural operations, Agricultural Order 4.0 enrollees could be subject to the Construction General Permit. The Construction General Permit would require preparation of a SWPPP and implementation of BMPs to minimize soil erosion and discharge of sediments. Where individual management practices would be exempt from enrollment in the Construction General Permit, these activities may be subject to a local grading ordinance, and as such would typically require preparation and implementation of a grading plan, including erosion control measures. Compliance with local grading ordinances would reduce potential impacts to less than significant.

In situations where neither the Construction General Permit nor local grading ordinance applies, Agricultural Order 4.0 enrollees would need to implement **Mitigation Measure HWQ-1**. This mitigation measure would require implementation of erosion control measures during construction of ground-disturbing management practices. Additionally, implementation of **Mitigation Measure HAZ-1** would require that Agricultural Order 4.0 enrollees follow proper hazardous materials storage and management during construction activities. Given compliance with existing laws and regulations, and with implementation of applicable mitigation measures, this impact would be less than significant with mitigation. The mitigation measures are described following the Findings.

Impact HWQ-3.i

Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner that would result in substantial erosion or siltation.

Finding

Changes or alterations have been required in, or incorporated into, the Proposed Project which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

Rationale

Construction of certain management practices, such as runoff management features, sediment retention basins, and bioreactors, could temporarily alter on-site drainage patterns. Where installation of these features would disturb more than 1 acre of land, Agricultural Order 4.0 enrollees could be required to comply with the Construction General Permit. As part of compliance with the Construction General Permit, Agricultural Order 4.0 enrollees would need to prepare a SWPPP and implement BMPs to help prevent runoff from causing erosion or siltation during construction.

For sites less than 1 acre in size or otherwise exempt from enrollment in the Construction General Permit, Agricultural Order 4.0 enrollees may be subject to a local grading ordinance, requiring preparation and implementation of a grading plan, including erosion control measures. In situations where management practice construction is not subject to the Construction General Permit or a local grading ordinance, implementation of **Mitigation Measure HWQ-1**, which is described following the Findings, would avoid or minimize impacts related to erosion or siltation.

Given compliance with existing laws and regulations, and implementation of the applicable mitigation measure, this impact would be less than significant with mitigation.

Impact HWQ-4:

In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation.

Finding

Changes or alterations have been required in, or incorporated into, the Proposed Project which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

Rationale

Ranches subject to Agricultural Order 4.0 could be located in areas prone to flooding or inundation as a result of tsunami or seiche. Certain management practices that are designed to store and filter runoff, such as sediment retention basins, could potentially release greater volumes of sediment-laden runoff during a flood, while bioreactors could potentially release water with higher concentrations of nitrate from fertilizers, should floodwaters exceed the capacity of those facilities.

Placement of facilities that store or filter runoff outside of 100-year floodplains, tsunami and seiche inundation zones per **Mitigation Measure HWQ-2**, which is described following the Findings, would reduce this potential impact to a level that is less than significant with mitigation.

Impact NOI-1

Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Proposed Project in excess of standards established in a local general plan or noise ordinance or in the applicable standards of other agencies.

Finding

Changes or alterations have been required in, or incorporated into, the Proposed Project that avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

Rationale

Certain management practices or facilities that could be installed under Agricultural Order 4.0 may have components that could generate operational noise. Efficient irrigation systems could include a pump or other pressurization equipment that could generate noise, and new groundwater monitoring wells that may be installed pursuant to the groundwater trend monitoring requirements could also include pumps that could generate noise.

In some cases, management practices or new monitoring well installation could be adjacent to or near sensitive receptors, such as residences and recreational areas, and thus noise-generating appurtenances could expose these receptors to noise. To minimize this potential impact, **Mitigation Measure NOI-1** would be implemented, which would require that noise from stationary equipment is reduced to the extent feasible, unless otherwise excepted. This mitigation measure, which is described following the Findings, would reduce potential impacts from operational noise to a level that is less than significant.

Impact TCR-1

Cause a substantial adverse change in the significance of a tribal cultural resource (TCR).

Finding

Changes or alterations have been required in, or incorporated into, the Proposed Project which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

Rationale

Construction and installation of reasonably foreseeable management practices that involve ground disturbance (e.g., sediment basins, vegetated filter strips, denitrifying bioreactors, etc.) could potentially uncover buried TCRs. While most activities would

occur within existing fields, it is possible that certain management practices could be constructed and installed in areas adjacent to existing fields that have not been subject to prior disturbance. These types of activities could potentially impact TCRs if they were present within the proposed disturbance area and proper protocols were not followed.

Implementation of **Mitigation Measure CUL-1 and CUL-3**, which are described following the Findings, would avoid or reduce potential impacts on TCRs.

IV. MITIGATION MEASURES

Biological Resources

Mitigation Measure BIO-1: Avoid and Minimize Impacts on Sensitive Biological Resources

Where construction/installation or routine maintenance and repair of management practices could impact sensitive vegetation communities (e.g., riparian habitat or wetlands adjacent to the construction area) and special-status species, as defined and listed in the final EIR Section 3.3.3 and Volume 2, Appendix C, permit enrollees must use the least impactful effective management practice to avoid impacts to such species and habitat. Where application targets and limits, discharge targets and limits, and receiving water limits cannot be achieved without incurring potential impacts, individual enrollees, coalitions, or third-party representatives must implement the following measures to reduce potential impacts to levels that are less than significant.

- Avoid and minimize disturbance of riparian and other sensitive vegetation communities.
- Avoid and minimize disturbance to areas containing special-status plant or animal species.
- Where construction in areas that may contain sensitive biological resources cannot be avoided through the use of alternative management practices, conduct an assessment of habitat conditions and the potential for presence of sensitive vegetation communities or special-status plant and animal species prior to construction. This may include the hiring of a qualified biologist to identify riparian and other sensitive vegetation communities and/or habitat for special-status plant and animal species.
- When conducting maintenance or repair on facilities such as sediment basins, denitrifying bioreactors, or other facilities that may provide habitat for species, ensure that such activities will not disturb any special-status species that may be present. If conducting maintenance or repair activities during the nesting season (generally February 1 to August 31), inspect the facilities to ensure that nesting birds are not present within or adjacent to areas where such activities will occur. If nests or young are identified in such areas, conduct the activities outside of the nesting season.
- Where adverse effects on sensitive biological resources cannot be avoided, undertake additional CEQA review and develop a restoration or compensation

plan in consultation with the California Department of Fish and Wildlife to mitigate the loss of the resources.

Cultural Resources

Mitigation Measure CUL-1: Cultural Resources Inventory, Evaluation of Resources for Significance, and Implementation of Avoidance and/or Minimization Measures.

For proposed actions or management practices that involve modifications to previously undisturbed soils (i.e., below the levels of current agricultural practices, or in areas that have not previously been cultivated or developed) or a structure that may qualify as a historical resource, the following steps must be taken to avoid and/or reduce potential impacts on significant cultural resources:

- The enrollee or third party must retain an archaeologist who meets the U.S. Secretary of Interior's professional standards as an archaeologist to conduct a records search at the regional Information Center of the California Historical Resources Information System (CHRIS). The record search must determine if cultural resources have previously been identified in the proposed disturbance area and whether the proposed disturbance area has previously been subject to archaeological pedestrian survey.
- The professional archaeologist must contact the NAHC to request a search of the Sacred Lands files and a list of tribes with a traditional and cultural affiliation with the proposed disturbance area. The archaeologist must contact the tribes identified by the NAHC to request information about sites and resources that may not have been identified during the record search process, including TCRs, and whether the tribes have any concerns about the proposed action.
- If a pedestrian survey has not previously been conducted on the property, a survey must be conducted by a qualified archaeologist. All identified archaeological sites and historic buildings and structures must be recorded on California Department of Parks and Recreation 523 Site Record forms. A Historic Resources Identification Report (HRIR) must be prepared to document the findings of the study; the report must be submitted to the CCWB and the CHRIS Information Center. If the property has been subject to previous study, additional survey is not required if no cultural resources, including TCRs, were identified during the study and the age and adequacy of the report are considered sufficient by the consulting archaeologist for the purposes of the present project. The report from the previous survey can then be used to satisfy the CEQA requirements for historical resources. If the property has been subject to previous survey and a cultural resource has been identified within the proposed disturbance area, a qualified archaeologist must conduct a pedestrian survey to assess the current condition of the resource relative to the proposed action.
- If cultural resources are identified either by the record search or pedestrian survey, the qualified archaeologist must evaluate the significance of archaeological resources, per the State Water Board Resources Control Board

guidelines[1] (2019). Note that buildings that would be impacted by the proposed action would require evaluation for CRHR eligibility by a qualified architectural historian. If the cultural resource(s) are determined to be historical resource(s) (i.e., listed or eligible for listing in the CRHR), the enrollee or third party, in coordination with the qualified archaeologist, must avoid impacting the resource(s) to the extent feasible. This would include relocating or redesigning proposed management practice(s) such as to avoid the resource or otherwise preserving structure(s) that are listed or eligible for listing. If the historical resource(s) cannot be completely avoided, the qualified archaeologist must develop and implement a data recovery plan, which makes provisions for adequately recovering the scientifically consequential information from and about the historical resource(s) that may be impacted by the proposed activity. The data recovery plan must be prepared and submitted to CCWB for approval, and the data recovery plan must be approved by CCWB prior to any excavation taking place that may impact the resource(s). CCWB must ensure that data recovery plans for Native American archaeological sites have the opportunity to be reviewed by consulting tribes. Archaeological sites known to contain human remains must be treated in accordance with the provisions of Section 7050.5 of the Health and Safety Code (see Mitigation Measure CUL-3). For any artifacts removed during project excavation or testing, the professional archaeologist must provide for the curation of such artifact(s). For structure(s) evaluated as a historical resource(s) that cannot be avoided, reconstruction of the structure(s) at an off-site location, consistent with the Secretary of the Interior's Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings, may be an appropriate minimization measure that may be implemented in addition to, or as part of, the data recovery plan.

- Provisions must be made by the enrollee or third party for the accidental discovery of historical or unique archaeological resources during construction of applicable management practices, pursuant to CEQA Guidelines § 15064.5(f). If cultural resources[2] are uncovered during construction, work must immediately cease within 50 feet of the finds and the materials must be evaluated by a qualified archaeologist. If the finds are determined to be a historical or unique archaeological resource, avoidance measures or appropriate mitigation (e.g., data recovery, documentation, and curation) must be implemented.

[1] Guidelines for Applicants and their Consultants on Preparing Historic Property Identification Reports for the Clean and Drinking Water State Revolving Fund Programs. Revised 9/12/19. While these guidelines were developed for other SWRCB programs, they provide protocols that can generally be applied to other programs where cultural resources must be addressed.

[2] Native American archaeological materials or indicators may include, but are not limited to, arrowheads and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars, and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone, fire affected stones, shellfish, or other dietary refuse. Historic era archaeological materials may include, but not be limited to: adobe or fired brick; metal objects such as nails, hinges, machine parts, etc.; household wares such as pottery or glass artifacts or shards; tin cans; milled lumber, etc.

Mitigation Measure CUL-2: Comply with State Laws Pertaining to the Discovery of Paleontological Resources.

If any items of paleontological interest are discovered during construction of management practices or other activities (e.g., installation of monitoring wells), work must be immediately suspended within 50 feet of the discovery site, or to the extent needed to protect the site. Discovered paleontological resources must be evaluated by a qualified paleontologist who meets the Society for Vertebrate Paleontology's professional requirements. If it is determined that the activities could damage a unique paleontological resource, mitigation must be implemented in accordance with PRC Section 21083.2 and Section 15126.4 of the State CEQA Guidelines. If avoidance is not feasible, the paleontologist must develop a treatment plan in consultation with CCWB. Work must not be resumed until authorization is received from CCWB and any recommendations received from the qualified paleontologist are implemented.

Mitigation Measure CUL-3: Comply with State Laws Pertaining to the Discovery of Human Remains.

If human remains are discovered during construction, the requirements of Health and Safety Code Section 7050.5 must be followed. Potentially damaging excavation must halt on the construction site within a minimum radius of 100 feet of the remains, and the county coroner must be notified. The coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or state lands (Health and Safety Code Section 7050.5[b]). If the coroner determines that the remains are those of a Native American, the NAHC must be contacted by phone within 24 hours of making that determination (California Health and Safety Code Section 7050[c]). Pursuant to the provisions of PRC Section 5097.98, the NAHC must identify a most likely descendent (MLD). The MLD designated by NAHC must have at least 48 hours to inspect the site and propose treatment and disposition of the remains and any associated grave goods. The enrollee must work with the MLD to ensure that the remains are removed to a protected location and treated with dignity and respect. Ground disturbing activities must not resume until these requirements are met.

Hazards and Hazardous Materials

Mitigation Measure HAZ-1: Hazardous Materials Spill Prevention, Control, and Countermeasures for Land Disturbance Activities

For Agricultural Order 4.0 land disturbance activities that are not subject to the Construction General Permit, Agricultural Order 4.0 enrollees or their contractors must maintain/implement the following:

- A list of hazardous materials present on site during construction, to be updated as needed along with product safety data sheets and other information regarding storage, application, transportation, and disposal requirements;

- A hazardous materials communication plan, which lists contacts for emergency services, hazardous materials spill response agencies, and wildlife agencies, as well as protocols for communication in the event of a spill;
- Standards for secondary containment of hazardous materials stored on site;
- Spill response procedures based on product and quantity. The procedures must include spill response/clean-up materials to be used, location of such materials within the construction site, and disposal protocols.

Mitigation Measure HAZ-2: Review Proximity to Existing Known Hazardous Materials Cleanup Sites and Conduct an Environmental Site Assessment if Proposed Activity is Located on or in Close Proximity to an Area of Hazardous Materials Contamination.

Agricultural Order 4.0 enrollees proposing construction/installation of management practices involving excavation or ground disturbance must evaluate the proximity of proposed management practices to existing known hazardous material cleanup sites. Prior to final design, Agricultural Order 4.0 enrollees, or their contractors, must review the planned management practice facility footprint in relation to records of hazardous materials sites in the SWRCB's GeoTracker database and the California Department of Toxic Substances Control's EnviroStor database.

If the proposed management practice is located on or within 100 feet of a documented hazardous material contamination site, for which cleanup activities have not been completed or been successful, the enrollee or its contractor must commission a Phase I environmental site assessment (ESA) to more fully characterize the past land uses and potential for soil and/or groundwater contamination to occur at or in close proximity to the site.

If the Phase I ESA demonstrates a reasonable likelihood that contamination remains within the management practice's area of disturbance, the enrollee or its contractor must commission a Phase II ESA, including soils testing, to characterize the extent of the contamination and develop ways to avoid the contaminated areas during management practice facility design and construction. The enrollee and/or its contractor must follow all recommendations of the Phase II ESA and, to the extent feasible, design the management practice to avoid areas of contamination. In the event that it is not feasible to avoid all areas of contamination, the enrollee and/or its contractor must follow all applicable laws regarding management of hazardous materials and wastes. This includes proper disposal of any contaminated soil in a hazardous waste landfill and ensuring that workers are provided with adequate personal protective equipment to prevent unsafe exposure.

Hydrology and Water Quality

Mitigation Measure HWQ-1: Implement Construction Best Management Practices for Erosion Control

Where construction of management practices would not be subject to the Construction General Permit or local grading ordinance, Agricultural Order 4.0 enrollees must implement the following measures during construction of the improvements, or must implement alternative measures that are demonstrated to be equally or more effective:

- Implement practices to prevent erosion of exposed soil and stockpiles, including watering for dust control, establishing perimeter silt fences, and/or placing fiber rolls.
- Minimize soil disturbance areas.
- Implement practices to maintain water quality, including silt fences, stabilized construction entrances, and storm drain inlet protection.
- Where feasible, limit construction to dry periods.
- Revegetate disturbed areas.

The performance standard for these erosion control measures is to use the best available technology that is economically achievable. These measures may be included in SWPPP requirements, as appropriate.

Mitigation Measure HWQ-2: Place Management Practices that Involve Retention and/or Treatment of Surface Runoff Outside of 100-Year Floodplains or Tsunami or Seiche Inundation Zones

To the extent feasible, Agricultural Order 4.0 enrollees must place structural management practices that involve retention or treatment of runoff outside of Federal Emergency Management Agency-designated 100-year floodplains or identified tsunami or seiche inundation zones. Where seiche inundation zones have not been mapped, enrollees should use good judgment in not placing structural management practices for sediment retention in areas immediately adjacent to large standing waterbodies that could be inundated during a seiche event.

Noise

Mitigation Measure NOI-1: Reduce Noise Generated by Pumps or Other Stationary and Permanent Noise-Generating Equipment

If stationary and permanent noise-generating equipment is proposed to be installed, enrollees or third-party members must ensure that noise from such facilities does not exceed applicable local noise standards or limits specified in the applicable county ordinances and general plan noise elements, unless otherwise excepted.