

STATE OF CALIFORNIA  
CALIFORNIA NATURAL RESOURCES AGENCY  
CALIFORNIA WATER COMMISSION

RESOLUTION NUMBER: 2023-16

RESOLUTION TO AWARD FUNDING TO HARVEST WATER  
PROGRAM

WHEREAS, on November 4, 2014, California voters approved Proposition 1, the Water Quality, Supply, and Infrastructure Improvement Act of 2014 ("Proposition 1");

WHEREAS, Proposition 1 contained Chapter 8, "Statewide Water System Operational Improvement and Drought Preparedness," ("Chapter 8") which appropriates \$2.7 billion to the California Water Commission ("Commission") to invest in public benefits associated with water storage projects "that improve the operation of the state water system, are cost effective, and provide a net improvement in ecosystem and water quality conditions" (Water Code section 79750);

WHEREAS, on December 14, 2016, the Commission adopted regulations governing the quantification and management of public benefits associated with water storage projects that meet the criteria established for public investment (the Water Storage Investment Program ("WSIP"));

WHEREAS, the regulations were approved by the Office of Administrative Law on March 7, 2017, and appear in the California Code of Regulations, title 23, section 6000 *et seq.* ("regulations");

WHEREAS, the Commission, pursuant to the terms of the regulations, began the application period for funds from the WSIP on March 15, 2017;

WHEREAS, Sacramento Regional County Sanitation District (Regional San) applied for funding for its water storage project, the Harvest Water Project, pursuant to the terms of the regulations and submitted an application on or before August 14, 2017;

WHEREAS, the application from Regional San is complete and the Project is eligible for funding from the WSIP;

WHEREAS, on July 24, 2018, the Commission considered the funding amounts requested by the Applicants;

WHEREAS, the Commission made a Maximum Conditional Eligibility Determination (MCED) for the Harvest Water Project of \$280,500,000 at the July 24, 2018 Commission meeting;

WHEREAS, the Maximum Conditional Eligibility Determinations (MCEDs) for all projects in the Water Storage Investment Program used 2015 dollars to value the public benefits of the projects;

WHEREAS, the Commission adjusted the MCEDs for all projects by 1.5% to account for inflation, which was an adjustment to Regional San's MCED to \$287,512,200, at the January 20, 2021 Commission meeting;

WHEREAS, on October 20, 2021, the Commission found the Harvest Water Program to be feasible and eligible for funding through the Water Storage Investment Program;

WHEREAS, the Commission adjusted Regional San's MCED for inflation at the Commission's meeting on January 20, 2022 by increasing the Maximum Conditional Eligibility Determination by 2.5% for all projects, which was an adjustment to Regional San's MCED to \$291,841,209;

WHEREAS, the Commission awarded early funding, pursuant to Water Code section 79755(c), to Regional San for the Harvest Water Program of \$14,375,625, of which Regional San spent and was reimbursed \$14,365,872;

WHEREAS, the Commission reviewed the draft Contracts for Public Benefits (CAPBs) that Regional San negotiated with the California Department of Fish and Wildlife (CDFW) and the State Water Resources Control Board (SWRCB) at the Commission's meeting on March 17, 2023;

WHEREAS, Regional San submitted its request for final funding to Commission staff on May 25, 2023;

WHEREAS, the Commission considered Regional San's request for final funding at its regularly scheduled meeting on June 21, 2023;

WHEREAS, the Commission is a responsible agency for purposes of the California Environmental Quality Act and is responsible for mitigating or avoiding only the direct or indirect environmental effects of those parts of the Harvest Water Program which it decides to carry out, finance, or approve;

WHEREAS, as a responsible agency, the Commission must make findings as described in Attachment A to the Staff Report based on information contained therein, which Staff Report is attached to this Resolution as Exhibit A;

WHEREAS, Regional San submitted all required documentation necessary to meet the statutory requirements of the WSIP, as detailed in Exhibit A;

WHEREAS, the Commission finds that Regional San meets all the requirements for funding from the WSIP, pursuant to Water Code section 79755 including;



- (1) Entering contracts for public benefits with CDFW and SWRCB;
- (2) Submitting documentation supporting the payment of non-public benefit cost share;
- (3) All information submitted supporting the application is included on CWC's website for public review and comment at the hearing held on June 21, 2023;
- (4) Project feasibility studies are complete;
- (5) The Commission determined the project is feasible, consistent with "all applicable laws and regulations, and will advance the long-term objectives of restoring ecological health and improving water management for beneficial uses in the Delta"; and
- (6) All applicable environmental documentation is complete, and all federal, state, and local "approvals, certifications, and agreements... have been obtained";

WHEREAS, the Commission recognizes additional funding may become available to the WSIP if additional projects withdraw from the WSIP;

WHEREAS, previous actions by the Commission when projects withdraw from the WSIP included inflation adjustments to the remaining projects in the WSIP;

NOW, THEREFORE, BE IT RESOLVED, that the Commission awards Regional San \$291,841,209 for construction of the Harvest Water Program;

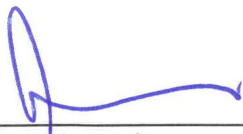
BE IT FURTHER RESOLVED, that the award shall be reduced by \$14,365,872 which is the amount of early funding Regional San already received, for a final funding contract amount of \$277,475,337;

BE IT FURTHER RESOLVED, that the Commission directs staff to enter into a funding agreement for \$277,475,337;

BE IT FURTHER RESOLVED, that the Commission can consider Regional San and the Harvest Water Program for additional funding if such funding becomes available;

BE IT FURTHER RESOLVED, that the Commission makes all of the findings attached to this Resolution and directs the Executive Officer to perform those ministerial duties necessary for the Commission, as a responsible agency, to comply with CEQA, including filing the findings attached to this Resolution with the State Clearinghouse.

Signed:



Matthew Swanson, Chair  
California Water Commission

6/21/2023  
Date

Attest:

  
\_\_\_\_\_  
Joseph R. Yun, Executive Officer  
California Water Commission

6/21/23  
Date

## Water Storage Investment Program Harvest Water Program Final Award Hearing

### Introduction

The Sacramento Regional County Sanitation District (Regional San) is developing the Harvest Water Program in southern Sacramento County. The Harvest Water Program is one of seven projects within the Commission's Water Storage Investment Program (WSIP). The Commission received the original application for the project in 2017 and the project has completed the Proposition 1 requirements to request a final award hearing. On May 25, 2023, Regional San submitted an official request to schedule a final award hearing. Regional San also submitted information regarding the statutory requirements and changes that have occurred to the project and its public benefits for the Commission's consideration to determine a final award.

The Harvest Water Program is a conjunctive use project that proposes to deliver up to 50,000 acre feet per year (AFY) of tertiary-treated water from the Sacramento Regional Wastewater Treatment Plant to more than 16,000 acres of agricultural and habitat lands in southern Sacramento County.

This staff report presents information about the WSIP and the Harvest Water Program application, a summary of the documentation received from Regional San, information about the Commission's obligations under CEQA (the California Environmental Quality Act), staff analysis of the public benefits since the application evaluation, and staff's recommendation regarding the Commission's final funding decision.

Based on Staff's analysis, the changes in the Harvest Water Program operations and benefits do not change any determinations the Commission previously made and requirements for final funding have been fulfilled. Although physical public benefits have changed since the application, the current value of public benefits exceeds the Maximum Conditional Eligibility Determination (MCED). Staff's recommendation is to fund the project to the MCED. Details are discussed below.

### Background

Proposition 1 of 2014 dedicated \$2.7 billion for investments in water storage projects. The California Water Commission administers the WSIP to fund the public benefits associated with these projects. The WSIP is a competitive funding program that has been active since 2017, when applicants submitted applications. The following summarizes the phases of activities associated with WSIP.

### Application Review

Applicants submitted applications to the Water Storage Investment Program (WSIP) in July 2017. Applications were reviewed for basic eligibility and completeness, went through a public benefit ratio evaluation process, and were given a final score by the Commission. Each review step included an opportunity for applicant input or response to staff review. The process was transparent: staff posted all review information on the website, any exchanges between applicants and staff were recorded and made available to the public, and discussions or decision making by the Commission occurred in a public meeting. The application review process culminated in 2018 when the Commission determined final scores, made the nine determinations listed in Table 1, and made MCEDs, which is the maximum amount of Proposition 1 funding available to a given project. The Commission also awarded early funding, which can be used to fund activities related to completing environmental documentation and permitting. Applicants had two opportunities to request early funding and the Commission decided whether to award early funding and determined the amount.

**Table 1. Commission Determinations**

1. The proposed project is cost-effective.
2. The proposed project improves the operations of the State water system.
3. The proposed project provides a net improvement in ecosystem and water quality conditions.
4. The proposed project provides measurable improvements to the Delta ecosystem or to the tributaries to the Delta.
5. The WSIP cost share is less than or equal to 50 percent of the proposed project's total capital costs, with the exception of conjunctive use projects and reservoir reoperation projects.
6. The WSIP-funded ecosystem improvement benefits make up at least 50 percent of the total public benefits funded by WSIP.
7. The proposed project appears to be feasible.
8. The proposed project advances the long-term objectives of restoring ecological health and improving water management for beneficial uses of the Delta.
9. The proposed project is consistent with all applicable laws and regulations.

### Continued Eligibility

Water Code section 79757 required all WSIP projects to complete feasibility studies and make draft environmental documentation available for public review by January 1, 2022. Failure to complete these requirements would have made a project ineligible for funding. Additionally, Water Code section 79757 required the Commission to make a finding that the project is feasible, and the Director of the Department of Water Resources (DWR) needed to receive



commitments for not less than 75 percent of the non-public benefit cost share of the project by the January 1, 2022 deadline. Regional San submitted the information to comply with Water Code §79757 for the October 20, 2021, Commission meeting. The Commission found the Harvest Water Program feasible.

#### Draft Contracts for the Administration of Public Benefit (CAPBs)

The WSIP funds the public benefits of a project, which are governed by the CAPBs. Draft versions of the CAPBs are made available for public comment at a Commission meeting before the project advances to the final award hearing. The contracts are negotiated between the WSIP applicant and the administering agency responsible for overseeing the public benefits associated with the project: California Department of Fish and Wildlife (CDFW) is responsible for administering ecosystem improvement benefits; State Water Resources Control Board (SWRCB) is responsible for administering water quality benefits; and Department of Water Resources is responsible for administering recreation, flood control, and emergency response benefits. The administering agencies may consider public comment and Commissioner comment before they execute the public benefit contracts. The draft CAPBs for the Harvest Water Program were presented by CDFW and SWRCB at the March 15, 2023 Commission meeting. At the same meeting Regional San provided the Commission a virtual site tour to help Commissioners understand the project and how public benefits would be realized.

#### Final Award

Before the Commission can make a final funding decision, the applicant must complete all statutory requirements and provide the Commission with a description of changes to the project that have occurred since the MCED was made, including any changes to planned operations. Statutorily required items include contracts for non-public benefit cost share, contracts for public benefits, completed feasibility studies, completed environmental documentation, and obtaining all required permits and approvals. The Commission must hold a public hearing to receive public comment and determine if the project completed all the requirements. The Commission shall consider any changes that have occurred since 2017 and determine a final WSIP cost share. The Harvest Water Program officially submitted its request for a final funding hearing on May 25, 2023, which included information about the requirements and changes to the public benefits.

#### Water Code Section 79755(a)(2): Contracts for Non-Public Benefits

Regional San provided a Board Resolution agreeing to fund the non-public benefit cost share for the Harvest Water Program.

#### Water Code Section 79755(a)(3): Executed Contracts for the Administration of Public Benefits (CAPBs)

The Harvest Water Program provides public benefits for both ecosystem and water quality. Executed CAPBs between Regional San and California Department of Fish and Wildlife for the ecosystem benefits and State Water Board for the water quality benefits were provided to CWC.

Water Code Section 79755(a)(5)(A): Completed Feasibility Study

Feasibility documents were submitted to meet the January 1, 2022 deadline (Water Code section 79757(a)). No other documents are needed to meet this requirement.

Water Code Section 79755(a)(5)(B) Commission Determinations

No changes occurred to the project that affect the determinations made in 2018 and 2021 related to feasibility, consistency with laws and regulations, and beneficial uses to the Delta.

Water Code Section 79755(a)(5)(C) Completed Environmental Documentation

Water Code section 79755(a)(5)(C) requires all applicants, including Regional San, to complete all environmental documentation associated with the project, including State and Federal documents. The following environmental documents satisfy this requirement:

- Draft and Final Program Environmental Impact Report (EIR), and related approval documents
- Initial Study (IS) checklist for Lateral Pipelines and On-Farm Connections and approval documents
- CEQA Addenda for Harvest Water Program Groundwater Accounting; and Ecological Plan and Wintertime Application; and On-Farm Connections Vehicle Turnouts Projects as well as approval documents for each CEQA Addendum
- Environmental Assessment and Finding of No Significant Impact

Water Code Section 79755(a)(5)(C): Federal, State, Local Approvals, Certifications, and Agreements Required for Construction Have Been Obtained

The following table summarizes the approvals, certifications, and agreements obtained by Regional San for the Harvest Water Program.

**Table 2: Summary of Approvals, Certifications, and Agreements**

Permits and Agreements	Entity(ies) Issuing Item	Date Obtained
Order Approving Change in Purpose and Place of Use of Treated Wastewater (Order WW0092)	State Water Resources Control Board, Division of Water Rights	September 2019
Local Agency Formation Commission (LAFCo) Certificate of Completion	Sacramento LAFCo	June 2021
Lake and Streambed Alteration Agreement	California Department of Fish and Wildlife	April 2021

Aquatic Resources Impact Application	South Sacramento Conservation Agency	March 2022
South Sacramento Habitat Conservation Plan (SSHCP) Coverage including <ul style="list-style-type: none"> <li>• Section 404 Permit authorization under USACE Programmatic General Permit 17 for the SSHCP</li> <li>• CDFW Incidental Take Permit authorization through the SSCHP</li> <li>• Section 7 Consultation authorization through the SSHCP</li> </ul>	South Sacramento Conservation Agency	March 2022
Clean Water Act Section 401 Water Quality Certification	Central Valley Regional Water Quality Control Board	November 2021
National Historic Preservation Act Section 106 and Tribal Consultation	US Bureau of Reclamation, as federal lead agency	January 2021

#### Environmental Review

The Commission is a responsible agency under CEQA. Staff reviewed the South Sacramento County Agricultural and Habitat Lands Recycled Water Program Draft and Final Program Environmental Impact Reports (EIR) (State Clearinghouse Number 2015022067, July 2016), and the Mitigation Monitoring and Reporting Plan (MMRP), prepared by the lead agency, Regional San. The proposal before the Commission is the funding of the Harvest Water Program under the WSIP. The components of Regional San's Harvest Water Program are covered by the Draft and Final EIR, as well as the CEQA Addenda for the On-Farm Connections Vehicle Turnouts Project, Groundwater Accounting Project, EcoPlan and Wintertime Application Project, and the Initial Study Checklist that determined the Lateral Pipelines and On-Farm Connections Project is within the scope of activities covered by the EIR.

Regional San determined that the project will have a significant effect on the environment, and filed a Notice of Determination for the Final EIR with the State Clearinghouse and the Sacramento County Recorder on March 8, 2017. Regional San incorporated mandatory mitigation measures into the project plans to avoid impacts or to mitigate impacts. These mitigation measures, included in Regional San's Final EIR and MMRP, address impacts to aesthetics, biological resources, cultural resources, hazards and hazardous materials, land use and agriculture, hydrology and water quality, public utilities and traffic and transportation, and recreation. These mitigation measures are within the responsibility and jurisdiction of Regional San and have been adopted by Regional San.

In accordance with CEQA California Code of Regulations, Title 14, Section 15096(f), CWC staff independently reviewed and considered Regional San's Draft and Final EIR, MMRP, and CEQA Addenda, which support the Commission's approval of final funding for the Harvest Water Program. The Commission, as a responsibly agency, is responsible for mitigating or avoiding



only the direct or indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve (CEQA Guidelines Section 15096(g); Public Resources Code Section 21002.1(d)). Here, the Commission's action is limited to the approval of funding for the Harvest Water Program, and the Commission's jurisdiction is limited to imposing conditions to mitigate or avoid impacts to the environment under its authority, specifically, implementing the Water Storage Investment Program and selecting water storage projects to fund, pursuant to the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1), based on the expected return for public investment determined by the magnitude of public benefits provided.

The Commission, as a responsible agency, is required to make findings for each significant effect of the project (CEQA California Code of Regulations, Title 14, Sections 15096(h) and 15091). These findings can be found in Attachment A. When considering the record as a whole, and in accordance with CEQA California Code of Regulations, Title 14, Section 15096(f) and(g), staff recommends that the Commission make the responsible agency findings as found in Attachment A.

### Harvest Water Program MCED, Early Funding, Maximum Final Award

The Commission made an initial MCED of \$280,500,000 in 2018 for the Harvest Water Program. As additional WSIP funds became available due to another WSIP project withdrawing from the program, the Commission increased the MCEDs of all projects twice to account for inflation. The first inflationary adjustment, in 2021, provided a 1.5% increase and the second, in 2022, provided a 2.5% increase as shown in Table 3.

**Table 3. Harvest Water Program MCEDs**

Original MCED	2021 MCED with Inflation Adjustment (1.5%)	2022 MCED with Inflation Adjustment (2.5%)
\$280,500,000	\$287,512,500	\$291,841,209

Proposition 1 allows for early funding to help with permits and environmental documents. The MCED represents the maximum amount a project may receive from the Commission. Early funding is part of the MCED, not an additional sum. The award and disbursement of early funding affects the funds available to the project in the Commission's final award. In April 2021, Regional San requested early funding. The Commission awarded the Harvest Water Program \$14,375,625 in early funding. At the close of the early funding agreement, Regional San used \$14,365,872 of the early funding available. The maximum final award the Commission can make for the Harvest Water Program is \$277,475,337, which is the 2022 MCED of \$291,841,209 less the early funding already disbursed to Regional San.



## Project Update

Regional San's documentation indicates that Harvest Water Program features (facilities or operations) and benefits have not changed significantly since the application review phase of the project. Regional San's costs to construct the Harvest Water Program changed substantially, primarily due to significant inflation between 2015 and 2023.

### Cost Summary

The Harvest Water Program is a conjunctive use project and is eligible to receive a funding amount that is greater than 50% of the project's capital costs (Water Code section 79756). The Commission set the initial MCED value for the Harvest Water Program at \$280 million based on the capital costs of the project at that time. Although the capital costs of the Harvest Water Program have increased since 2018 (\$280.5 million to \$579.2 million) due to various factors, such as pump station and distribution system price increases and overall inflation, it is important to note that the Commission cannot increase the MCED based on cost changes.

## Staff Analysis

Staff's analysis relies on documentation submitted by Regional San including the Final CAPBs. Regional San negotiated CAPBs with CDFW and SWRCB for ecosystem and water quality benefits, respectively.

### Staff Assessment of Public Benefit Changes

Staff evaluated the value of the physical public benefits described in the CAPBs to understand changes to the public benefits since the 2018 application scoring and the Commission MCED decision. Staff considered changes to the physical public benefits and other factors that affect benefit value, such as inflation and changes in water value. Staff adjustments to the calculation of the value of the public benefits reflect changes to four main factors:

- Inflation - Calculations changed due to inflation of land value and overall inflation adjustments to 2022 dollars.
- Water Value - Recent drought years have justified an increase to the value of water during critical and dry years.
- Ramp up time – A delay in commencement of public benefits.
- Physical benefits – The amount of water required to achieve a benefit, the functionality of habitat lands, and functionality of existing lands and comparable mitigation lands used for alternative costs. Adjustments related to changes in physical benefits are discussed in the individual benefit descriptions below.

Staff's adjustments to the public benefit calculation increased the project's overall financial value, highlighting new understanding of economic factors and their influence on the project's overall worth.

### **Inflation**

Staff's changes around inflation focus on accurately reflecting benefits in current dollars. This includes using the California Consumer Price Index (CPI), resulting in a 29.1% increase in value compared to the previous 2018 calculation which was in 2015 dollars. Staff's changes to land-based benefits using the USDA's Cropland Average Value per Acre for 2015 and 2022, resulted in a 42% increase from 2015 to 2022 values. Staff applied the inflationary increase to land for sandhill crane habitat, riparian habitat, wetland habitat and vernal pool habitat. Staff applied the CPI inflation to the water for sandhill crane habitat, Cosumnes River flow, and water quality benefits.

### **Water Value**

Staff accounted for the impact of enhanced water market information since the initial MCED. First, staff included inflation since 2015 based on the CPI. Second, more drought years provide evidence for a higher unit value of water in dry and critical years. New water market information and the effects of the implementation of SGMA suggest increasing north-of-Delta (NOD) water values in critical years, with evidence suggesting influences from south-of-Delta (SOD) demands and prices. The result was an increase in benefits associated with alternative costs of NOD water under 2030 conditions. Unit values for 2070 NOD water are increased for inflation only.

The original calculations set a 2030 unit value of \$275 for dry year water NOD in 2015 dollars. Updated calculations reflected a substantial increase, with the value adjusted upward to \$400 for dry years. Similarly, staff revised the calculations for a critically dry year from the original 2030 NOD value of \$345 to an updated NOD amount of \$739 in 2022 dollars in the current benefit calculations. These adjustments reflect a more accurate assessment of the value of water under present circumstances.

Changes to water value calculations resulted in alterations to the public benefit calculations for two categories, Cosumnes River flow and sandhill crane habitat.

### **Ramp Up Time**

In the application evaluation of 2018, some public benefits accrued from year 1 of project operation. Based on the CAPBs some of these benefits will ramp up over time. While it is possible for the project to realize benefits more rapidly than depicted in the CAPBs, staff adjusted individual benefit values to account for the CAPB ramp-up. Benefit ramping adjustments are discussed in the individual benefit descriptions below.

### **Sandhill Crane Habitat**

The benefit analysis for sandhill crane habitat is based on the alternative cost of acquiring both land (3,500 acres) and water (0.66 acre-feet per acre) necessary to achieve the desired benefit. In 2017, the benefit for the MCED amounted to \$61.2 million in 2015 dollars.

According to the CAPB, the physical benefits in terms of sandhill cranes remain the same. However, the CAPB also indicates there is an increase in water delivery from 0.66 to 2.5 acre-feet per acre (AFA) (8,750 acre-feet of wintertime water delivery/3,500 acres of habitat). This increase does not increase the physical public benefit, because the requirements for sandhill crane habitat can be satisfied with a smaller amount of water. For purposes of monetization, CDFW recommended the water need for 3,500 acres of sandhill crane habitat be calculated as follows: four applications of six inches on 1,750 acres of roosting habitat and one application of six inches on 1,750 acres of foraging habitat for a total of 4,375 AF or 1.25 AFA (4,375/3,500). Therefore, the economic benefit is based on the alternative cost of 4,375 AF. The additional water, another 1.25 AFA, contributes to other ecosystem benefits, but these flow, wetland and riparian benefits are fully and separately quantified using the alternative cost method.

Staff made three other adjustments for a more accurate assessment:

- 1) a ramp up delay of one year in achieving the full physical benefit,
- 2) the increase in the north-of-Delta dry and critical year unit water values; and
- 3) the increase in land values of 42 percent.

With these modifications, the benefit is now estimated at \$78.24 million in 2015 dollars and \$107.8 million in 2022 dollars.

### **Cosumnes River Flow**

Staff calculated additional Cosumnes River flow benefits based on the alternative cost of water needed to achieve the same flow benefit. The MCED benefit assumed an immediate flow increase after completion of the project. The CAPB projects an average flow increase of 13,000 acre-feet over 20 years, as demonstrated by higher streamflows simulated at Twin Cities Bridge. Staff's adjustment allows for a linear increase (ramp up) in flow benefit over the course of 20 years.

During the application review phase, the net present value of Cosumnes River flow benefits for the MCED was \$79.3 million in 2015 dollars. With the adjustment discussed above and inflation, the benefit is now \$61.8 million in 2015 dollars and \$79.8 million in December 2022 dollars.

### **Passive Wetland and Riparian Habitat**

The passive wetland and riparian habitat benefit is determined based on the alternative cost of acquiring wetland habitat to achieve the same benefit. Changes from the original application include a change in acreage, decreased improved habitat functionality, and mitigation land cost inflation.

Initially, the claim for improved wetland acres was 3,133 acres. However, it was later determined that this included 500 acres of riparian active habitat. To avoid double-counting, the net acreage considered is 2,633 acres.

Based on these 2,633 acres, the original MCED benefit calculations during the application review phase projected improvements of 5% on 303 acres, 10% on 682 acres, 25% on 1,085 acres, and 50% on 583 acres by 2030. The CAPB indicates that a 10% improvement is expected across all 2,633 acres. Staff retained a reduction of 30% in the value per acre, which was added in 2018 to account for comparability with mitigation lands.

During the application review phase, the net present value of the passive wetland and riparian habitat benefit for the MCED was \$53.7 million in 2015 dollars. With the proposed changes mentioned above, the benefit is now valued at \$18.33 million in 2015 dollars and \$26.0 million (\$18.33 million multiplied by 1.42) in 2022 dollars.

### **Active Wetlands Habitat**

The active wetlands habitat benefit is determined based on the alternative cost of acquiring 1,300 acres of wetland habitat to achieve the same benefit. To accommodate the anticipated ramp up in obtaining the benefit, the approach assumes purchasing habitat in four equal installments starting in 2029.

During the application review phase, the \$19.9 million benefit in 2015 dollars was calculated based on 1,300 acres with a projected improvement of 50% on 300 acres and 10% on 1,000 acres by 2030. The CAPB indicates the same level of physical benefit. The reduction of 30% in the value per acre, which was initially included in 2017 during the application review to ensure comparability with mitigation lands, has been removed.

The benefit value in 2015 dollars increased from \$19.9 million to \$28.5 million, which translates to \$40.4 million in 2022 dollars after inflation.

### **Active Riparian Habitat**

The active riparian habitat benefit is determined based on the alternative cost of acquiring 500 acres of riparian land to achieve the same benefit. The approach to the calculation assumes purchasing the riparian mitigation acreage spread over fourteen years to accommodate the anticipated delay in obtaining the benefit. Changes from the original application include a



change in the functionality target, consideration of baseline functionality, and mitigation land cost inflation.

During the application process, the California Rapid Assessment Method (CRAM)<sup>1</sup> was used to calculate the habitat functionality. The CAPB has a functionality target of 70 percent, which is a reduction from 90 percent from the application process. The baseline of 20 percent was not included in the 2018 MCED calculation. The baseline and the reduced functionality target are reflected in the benefit value by reducing the value per acre of comparable riparian mitigation lands by half.

During the application review phase, the net present value of benefits for the MCED was \$21.7 million in 2015 dollars. With the revisions to the physical benefits and adjusting for inflation, the benefit is now valued at \$15.51 million in 2015 dollars and \$22.0 million in 2022 dollars.

### **Vernal Pool Complex**

The vernal pool complex benefit analysis considered the alternative cost of acquiring an additional 500 acres of vernal pool complex and 50 wetted acres during the application evaluation phase. In 2015 dollars, the MCED benefit was \$10.5 million.

The CAPB indicates a reduction in the expected complex acres to 353. However, the wetted acreage has increased to 56 acres. The original physical benefit remains substantively unchanged.

Additionally, there is now a one-year ramp up delay for this benefit. Considering the delay and inflation, the benefit is now estimated at \$10.1 million in 2015 dollars and \$14.3 million in 2022 dollars.

### **Water Quality**

The water quality benefit was determined during the application phase based on the costs associated with reduced salinity damages in urban areas served by Delta exports. Staff recommended, and the Commission agreed, to only consider the damages caused by salinity, as the cost of reverse osmosis reflects the full compliance cost, and salinity itself is not a compliance requirement.

Staff still does not consider the avoided cost of reverse osmosis (RO) as a valid basis for the value of the eligible water quality benefit. Staff continues to value the water quality benefit using salinity damages because 1) the cost of reverse osmosis reflects full compliance cost and 2) wastewater treatment improvements known as EchoWater will provide ammonia compliance even without Harvest Water. Since the program is precluded by statute from paying for existing mitigation or compliance obligations, and since EchoWater satisfies

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<sup>1</sup> California Rapid Assessment Method (CRAM) is wetlands assessment method used in California.

compliance obligations, there is no basis to include the alternative cost of RO as a water quality benefit associated with Harvest Water.

MCED benefits were allowed to accrue immediately upon completion of project construction. Recycled water deliveries will gradually increase over a period of five years under the terms of the CAPB. Consequently, water quality benefits will also ramp up during the initial five-year period. Staff assumes that 20%, 40%, 60%, 80%, and 100% of the benefits will be achieved in years 1, 2, 3, 4, and 5, respectively.

The MCED benefit was valued at \$47.7 million in 2015 dollars. With the adjusted calculations, the benefit amounts to \$42.86 million in 2015 dollars, or \$55.3 million in December 2022 dollars.

### Summary

Total public benefits are expected to be \$345.7 million in December 2022 dollars, which exceeds the 2022 MCED of \$291.8 million.

**Table 4: Summary of Benefit Calculation Changes**

Item	2018 Estimate (2015 dollars)	Regional San Estimate	Staff Analysis (December 2022 dollars)
Sandhill crane habitat	\$61.2M	\$155.9M	\$107.8M
Cosumnes River flow	\$79.3M	\$79.8M	\$79.8M
Passive wetland and riparian habitat	\$53.7M	\$37.8M	\$26.0M
Active wetlands habitat	\$19.9M	\$41.0M	\$40.4M
Active riparian habitat	\$ 21.7M	\$31.3M	\$22.0M
Vernal pool complex	\$10.5M	\$14.6M	\$14.3M
Water quality	\$47.7M	\$360.4M	\$55.3M
<b>Totals</b>	<b>\$294.0M</b>	<b>\$720.8M</b>	<b>\$345.7M</b>

### Staff Recommendation

Regional San provided sufficient documentation indicating that changes to the project have not affected the WSIP determinations made by the Commission in 2018 and 2021, and provided the documentation needed to request a final award hearing. Staff's analysis indicates the project continues to meet the statutory requirements of WSIP, including economic feasibility and the requirement that at least 50% of the public benefit funded are ecosystem benefits. Staff's analysis also shows the value of public benefits exceed the current MCED. Staff recommends:

1. The Commission award \$277,475,337 which, combined with the amount already disbursed for early funding, means that Harvest Water Program would receive a total of \$291,841,209 from the WSIP.
2. The Commission adopt the CEQA findings found in Attachment A.
3. The Commission direct the Executive Officer to file a Notice of Determination with the State Clearinghouse (CEQA California Code of Regulations, Title 14, Section 15096(i)).

**California Water Commission  
CEQA Responsible Agency Findings  
Harvest Water Program  
Environmental Impact Report**

**I. ENVIRONMENTAL REVIEW PROCESS**

The California Water Commission (CWC), as a Responsible Agency under the California Environmental Quality Act (CEQA), makes the following findings regarding the request submitted by the Sacramento Regional County Sanitation District (Regional San) for State funding for a portion of the public benefits associated with construction and operation of the Harvest Water Program (HWP). Regional San, as the Lead Agency under CEQA, prepared and certified a Program Environmental Impact Report (EIR) for the HWP (State Clearinghouse No. 2015022067) and adopted CEQA Addenda to the EIR. On March 8, 2017, the Regional San Board of Directors certified the EIR, approved the project, adopted CEQA Findings and Mitigation Monitoring and Reporting Plan (MMRP), filed the Notice of Determination (NOD), and subsequently on October 14, 2020 (Lateral Pipelines and On-farm Connections Project within Scope of EIR, Initial Study Checklist), January 13, 2021 (Ecological Plan and Wintertime Application), March 24, 2021 (Groundwater Accounting Project), and July 14, 2021 (Vehicle Turnouts), adopted the CEQA Addenda and filed the NODs.

The Commission's role in the Program would be to provide funding to Regional San pursuant to a Funding Agreement for the State's cost share of the public benefits. It is important to note that the CWC has no police power authority over the Program, and no authority over the Program as a permitting or regulatory agency.

The HWP, is a conjunctive use project to store and manage groundwater while improving stream flow, enhancing groundwater-dependent ecosystems, sustaining agricultural lands, and improving regional water supply reliability. Regional San would provide the water source for the HWP of up to 50,000 acre-feet per year (AFY) of Title 22 tertiary-treated recycled water. Water produced from the HWP would be used to irrigate approximately 16,000 acres of agricultural lands in Sacramento County near the lower Cosumnes River and Stone Lakes National Wildlife Refuge. The HWP water deliveries for irrigation of agricultural and habitat lands serves as an in-lieu groundwater recharge source. Recycled water use, in lieu of groundwater pumping, will increase groundwater elevations in the HWP area, which in turn are anticipated to increase flows in the Cosumnes River and support groundwater-dependent wetland and riparian habitats. The HWP is described at length in the EIR and CEQA Addenda prepared by Regional San (2017 EIR, Lateral Pipelines and On-farm Connections Project Initial Study Checklist, Ecological Plan and Wintertime Application Addendum, Groundwater Accounting Project



Addendum, and Vehicle Turnouts Addendum) that can be found here:

<https://www.regionalsan.com/harvest-water>.

The Commission, as a Responsible Agency under CEQA, has reviewed and considered the documentation prepared by Regional San, the Lead Agency. The Commission has considered the environmental effects of the HWP and has reached its own independent conclusions on whether and how to approve the provision of State funding for a portion of the public benefits associated with constructing and operating the HWP. Based on its independent judgment, the Commission makes the following findings.

## **II. SIGNIFICANT AND ADVERSE IMPACTS THAT ARE REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL BY MITIGATION MEASURES**

The impacts and mitigation measures, which are discussed more fully in Regional San's EIR and in its CEQA Findings, which are incorporated by reference, are listed below.

### **AESTHETIC RESOURCES**

#### **Impact AES-2 - Aesthetics: Create a New Source of Substantial Light, Glare, and Shadow**

Nighttime construction of the HWP could result in temporary light and glare impacts and create a nuisance to adjacent residents and hazard to motorists traveling near the transmission pipeline installation.

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** The following mitigation measure has been adopted by Regional San to reduce to less-than-significant levels the Project's aesthetic resources impacts related to creation of a new source of substantial light, glare or shadow:

**Mitigation Measure AES-2:** If nighttime construction lighting is required, the construction contractor shall shield and orient lighting downward and directed away from any nearby receptors to minimize effects. Lighting shall be directed toward active construction areas only, and shall have the minimum brightness necessary to ensure worker safety.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measure AES-2** will reduce impacts to a less-than-significant level by directing nighttime construction lighting away from receptors and only toward active construction areas, and using the minimum brightness necessary to ensure worker safety.

## BIOLOGICAL RESOURCES

**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 Game or U.S. Fish and Wildlife Service.**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** The following mitigation measures have been adopted by Regional San to reduce to less-than-significant levels the Project's biological resources impacts related to any species identified as a candidate, sensitive, or special status species:

**Mitigation Measure BIO-1a: Avoid Impacts (Both Permanent and Temporary) to the Extent Feasible to Habitats and Land Cover Types used by HCP-Covered and Non-HCP-Covered Sensitive Species.** Regional San and its contractors will avoid and minimize permanent and temporary impacts to habitat and land cover types used by sensitive species potentially occurring in the Project Area (also listed in Table 3.5.1 within the Project EIR). Avoidance and minimization of habitat areas will be accomplished during Project design work, and/or during construction by implementing best management practices, including establishment of buffer zones, installation of fencing around sensitive habitats, and implementation of a storm water pollution prevention plan (SWPPP) to reduce the potential for sediments or contaminants to enter sensitive habitats.

**Mitigation Measure BIO-1b: to Mitigate Impacts to Habitats and Land Cover Types Used by HCP-Covered and Non-HCP-Covered Sensitive Species HCP-Covered Species.** To mitigate unavoidable losses to habitats uses by sensitive species (both SSHCP-covered and non-SSHCP-covered) in the Project area, Regional San shall participate in and comply with the habitat-level conservation measures identified in the SSHCP. Conservation commitments of the SSHCP are presented as mitigation measures by Regional San and would be implemented by Regional San. If the SSHCP is not approved prior to the permitting phase, regulatory and permitting agencies may require mitigation that is different from measures prescribed in the SSHCP and would not receive monies from SSHCP participants to implement the SSHCP. Applicants would likely work directly with federal and state permitting agencies to secure necessary environmental permits. This section assumes SSHCP participation.

**Mitigation Measure BIO-1c to Mitigate Impacts to HCP-Covered Species.** Regional San shall participate in and comply with the species-specific conservation measures identified in the

South Sacramento Habitat Conservation Plan (SSHCP) for SSHCP-covered species. Conservation commitments of the SSHCP for Sacramento Orcutt Grass and Slender Orcutt Grass, California Tiger Salamander, Western Spadefoot Toad, Western Pond Turtle, Tricolored Blackbird, Burrowing Owl, Swainson's Hawk, and Other Covered Raptor Species such as Cooper's hawk, loggerhead shrike, northern harrier, and white-tailed kite would be implemented by Regional San.

**Mitigation Measure BIO-1d to Mitigate Impacts to Sensitive Non-HCP-Covered Species:**

Several sensitive species with a low- to moderate potential to occur in or near the Project area are not included as covered species in the SSHCP. For these species, Regional San shall implement the following mitigation measures:

- **Non-SSHCP-Covered Sensitive Plants.** Prior to construction-related disturbance of natural community types and land covers in the Project area, a botanical survey(s) will be completed to determine if sensitive plant species occur in the Project area. Surveys will be conducted during the appropriate time of the year to facilitate detections and identifications. Sensitive non-SSHCP-covered plant species detected in the Project area will be avoided as feasible. If impacts to sensitive non-covered plant species cannot be feasibly avoided, Regional San will coordinate with Sacramento County and the resource agencies (CDFW and/or USFWS) as appropriate to determine the course of action, which may include relocation of plants to the SSHCP Preserve System or another conserved location.
- **Non-SSHCP-Covered Birds.** Song sparrow (Modesto population) or other sensitive, non-SSHCP-covered bird species may occur in the Project area. Prior to disturbance of natural community or land covers, Regional San or its contractors will conduct nesting bird surveys to determine if active nesting is occurring in the project area. All active nests will be avoided to the extent feasible and a 25-foot buffer will be established and maintained around each active nest until such time that the nest is vacated.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measures BIO-1a, BIO-1b, BIO-1c and BIO-1d** will protect candidate, sensitive, and special status species and reduce impacts to a less-than-significant level by avoiding or mitigating impacts to habitat and land cover types used by identified species, and implementing protective protocols from the SSHCP.

**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 CA Dept of Fish and Game or U.S. Fish and Wildlife Service**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** Mitigation Measures BIO-1a and BIO-1b, described under Impact BIO-1 above, and the following Mitigation Measure BIO-2, have been adopted by Regional San for Impact BIO-2 to reduce to less-than-significant levels the Project's biological resources impacts related to riparian or other sensitive habitat:

**Mitigation Measure BIO-2: Secure Regulatory Permits to Impact Riparian Habitat and other Sensitive Natural Communities.** Regional San shall obtain all necessary permits and approvals required to impact riparian habitat and sensitive natural communities, to the extent that these impacts may occur with development of any of the action alternatives. Necessary permits and approvals will include CWA permits (Section 404 and 401), FESA, CESA permits, and CDFW Lake and Streambed Alteration Agreement, and would include measures to avoid, minimize, and compensate for any impacts so as to avoid any net loss in habitat value. Mitigation would include restoration of any habitats that were affected temporarily during construction, and could include purchase of credits from a mitigation bank if there are any permanent impacts to sensitive natural communities.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measures BIO-1a, BIO-1b, and BIO-2** will reduce impacts to a less-than-significant level by securing appropriate permits and approvals that include measures to avoid, minimize, and compensate for impacts to avoid net loss in habitat value.

**Impact BIO-3: Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (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 project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** Mitigation Measures BIO-1a and BIO-1b, described under Impact BIO-1 above, and the following Mitigation Measure BIO-3, have been adopted by Regional San for Impact BIO-3 to reduce to less-than-significant levels the Project's biological resources impacts related to wetlands:

**Mitigation Measure BIO-3: Secure Clean Water Act Permits/Approvals.** Regional San has prepared a wetland delineation report to identify and characterize aquatic resources within the vicinity of the Project area and will use this information to avoid wetlands and waters of the U.S. to the extent feasible. Once verified by the USACE, the delineation will be used to secure permits/approvals under Section 401 and 404 of the CWA. The wetland delineation report will

also be used to demonstrate consistency with the SSHCP and its terms and conditions for CWA and Endangered Species Act compliance. Compliance with SSHCP habitat-level conservation measures is assumed to satisfy mitigation requirements under Section 404 permitting, and conservation measures would be implemented by Regional San even if the SSHCP is not adopted. Regional San may be required to work directly with USACE to satisfy Section 404 permitting needs for project impacts to wetlands other waters of the U.S. if permitting associated with the SSHCP is not finalized at the time of the project permitting phase.

Mitigation may include restoration of affected jurisdictional areas to ensure no net loss wetland functions and values. Mitigation may also include preservation or enhancement of existing wetland habitat, or creation of wetland habitat.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measures BIO-1a, BIO-1b, and BIO-3** will reduce impacts to a less-than-significant level by securing appropriate permits and approvals that include no net loss of wetland functions and values.

**Impact BIO-4b: Impact movement or reproduction of sensitive or important fish species in the Sacramento River or Delta region (balanced operational conditions)**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** **Mitigation Measure HYD-4, as described under Impact HYD-4 below**, has been adopted by Regional San for Impact BIO-4b to reduce to less-than-significant levels the Project's biological resources impacts to the movement or reproduction of sensitive or important fish species.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measure HYD-4** will reduce impacts to a less-than-significant level by controlling thermal impacts in conjunction with the Bureau of Reclamation and other relevant resource agencies.

**Impact BIO-5: Conflict with any local policies or ordinances protecting biological resources, such as tree preservation policy or ordinance.**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

## Attachment A

**Rationale:** The following mitigation measure has been adopted by Regional San to reduce to less-than-significant levels the Project's biological resources impacts related to local policies or ordinances protecting biological resources:

**Mitigation Measure BIO-5: Comply with Sacramento County Tree Preservation Ordinance.**

Regional San shall participate in and comply with the terms and conditions of the Sacramento County Tree Preservation Ordinance. Native oak trees with a diameter breast height (DBH) of six inches or greater, street or public trees, and landmark trees shall not be destroyed, killed, or removed without a permit. The ordinance protects all oak trees unless they are specifically designated for removal as part of an approved project. When oaks are removed they must be replaced with the same tree species equaling in sum the diameter of the tree lost.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measure BIO-5** will reduce impacts to a less-than-significant level by complying with the Sacramento County Tree Preservation Ordinance, which limits which trees may be removed and how certain trees should be replaced.

## CULTURAL RESOURCES

**Impact CR-1: Cultural Resources: Potential to Result in a substantial adverse change in the significance of a historical, archaeological or paleontological resource**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** The following mitigation measures have been adopted by Regional San to reduce to less-than-significant levels the Project's cultural resources impacts related to construction activities that could result in the changing in the significance of historical, archaeological and paleontological resources.

**Mitigation Measure CR-1a: Discovery of Previously Unknown Historic or Archaeological Resources during Construction.** If during excavation or earth moving activities, potential historic or archaeological resources are encountered, the County or the local jurisdiction shall be notified and a professional archaeologist meeting the minimum qualifications in archaeology as set forth in the Secretary of the Interior's Standards and Guidelines shall be contracted by Regional San and dispatched to assess the nature and significance of the find in the following manner:

- All excavation and/or grading within 20 meters of the discovery area shall cease immediately. The responding archaeologist may, after analyzing the discovery, authorize an alternate (or reduced) buffer around the materials to ensure adequate evaluation and

protection of potential historic and/or archaeological resource(s) during continued construction operations.

- Additional evaluation of the historic and/or archaeological resource(s) shall be conducted and significance of the materials determined. If the discovery is considered significant, the archaeologist shall develop and implement a late-discovery mitigation strategy in conjunction with Regional San, to minimize and/or avoid the impact through preparation and implementation of an avoidance, evaluation, or recovery plan that Regional San will implement. Such a plan may involve resource avoidance (preservation in place), or could include recovery and archival research (e.g., excavation, documentation, curation, data recovery, or other appropriate measures).

**Mitigation Measure CR-1b: Note on Construction Plans.** Regional San shall require the inclusion of a note on all construction plans specifying that construction, excavation, and earthwork shall cease immediately if historical, archaeological, paleontological resources are discovered to enable a professional archaeologist to assess, evaluate, and mitigate or avoid the potential impacts to resources as appropriate.

**Mitigation Measure CR-1c: Discover of Paleontological Resources During Construction.** If paleontological resources are discovered during earth moving activities, the construction crew shall immediately cease work near the find. A qualified paleontologist shall assess the nature and importance of the find and if the resource is determined to be significant, prepare an avoidance, evaluation, or recovery plan, which Regional San will implement. Such a plan may involve resource avoidance (preservation in place), or could include recovery and archival research, (e.g., excavation, documentation, curation, data recovery, or other appropriate measures) as well as additional monitoring.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measures CR-1a, CR-1b, and CR-1c** will reduce impacts to a less-than-significant level by requiring the cessation of excavation or grading, notifying of a professional archaeologist when potential historic or archaeological resources are encountered, and providing for implementation of an avoidance, evaluation, or recovery plan.

**Impact CR-2: Development of the Project and the off-site infrastructure has the potential to disturb human remains, including those interred outside of formal cemeteries.**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.



**Rationale:** The following mitigation measure has been adopted by Regional San to reduce to less-than-significant levels the Project's cultural resources impacts related to construction activities that could result in the inadvertent exposure of human remains.

**Mitigation Measure CR-2: Discovery of Human Remains.** If human remains are encountered during construction of the Project site or the off-site infrastructure corridor, California Health and Safety Code Section 7050.5 requires that all disturbance at the site cease immediately within a 100 foot radius of the discovery, the County Coroner be notified, and a determination of origin and disposition provided by the Coroner pursuant to Public Resources Code Section 5097.98. If the remains are determined to be prehistoric, the Coroner shall notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery.

The MLD shall complete the inspection within 24 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measure CR-2** will reduce impacts to a less-than-significant level by requiring the cessation of disturbances and notification to appropriate authorities.

## **HAZARDS AND HAZARDOUS MATERIALS**

**Impact HAZ-1: Expose the Public or Environment to a Substantial Hazard through Reasonably Foreseeable Upset Conditions Involving the Release of Hazardous Materials into the Environment.**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** The following mitigation measure has been adopted by Regional San to reduce to less-than-significant levels the Project's hazards and hazardous materials impacts related to the potential release of hazardous materials that would expose the public or the environment to a substantial hazard:

**Mitigation Measure HAZ-1: Conduct Phase I Study along Transmission Pipeline.** Prior the start of construction, a Phase I hazardous waste/hazardous materials study for soil and groundwater contamination shall be completed for the transmission pipeline. The recommendations set forth in the Phase I assessment shall be implemented to the satisfaction of applicable agencies



before construction begins. If Phase I assessments indicate the potential for contamination within the construction zone of pipelines, Phase II studies shall be completed before construction begins. Phase II studies will include soil and groundwater sampling and analysis for anticipated contaminants. The Phase II sampling is intended to identify how to dispose of any potentially harmful material from excavations, and to determine if construction works need specialized personal protective equipment while constructing the pipeline through that area. If soil or groundwater contaminated by potentially hazardous materials is exposed or encountered during construction that was not identified in the Phase I assessment, the appropriate hazardous materials agencies shall be notified. Any contaminate soil that is encountered during construction shall be disposed of in accordance with applicable regulations, at an approved landfill.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of Mitigation Measures HAZ-1 will reduce impacts to a less-than-significant level by conducting a Phase I hazardous waste and materials study for soil and groundwater contamination for the transmission pipeline and implementing all recommendations set forth in the study.

**Impact HAZ-3: Impair Implementation of or Physically Interfere with an Adopted Emergency Response Plan or Emergency Evacuation Plan**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** Mitigation Measure TR-1, described under Impact TR-1 below, has been adopted by Regional San for Impact HAZ-3 and Impact TR-1 to reduce to less-than-significant levels the Project's hazards and hazardous materials impacts related to impairing or interfering with emergency plans.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of Mitigation Measures TR-1 will reduce impacts to a less-than-significant level by implementing traffic control that will increase safety related to the Project site.

**HYDROLOGY AND WATER QUALITY**

**Impact HYD-1: Violate Water Quality Standards or Waste discharge Requirements, Create Substantial Sources of Polluted Runoff or Otherwise Substantially Degrade Water Quality**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** The following mitigation measures have been adopted by Regional San to reduce to less-than-significant levels the Project's hydrology and water quality impacts related to construction activities that could result in increased erosion and sedimentation of surface waters:

**Mitigation Measure HYD-1a:** Comply with Construction General Permit. To minimize the impacts to water quality from construction activities, the proposed project shall implement measures contained in the Construction General Permit including the development of a SWPPP.

**Mitigation Measure HYD-1b:** Implement BMPs to Control Erosion and Sediment During Construction: The SWPPP shall specify that all construction activities shall implement multiple BMPs to provide effective erosion and sediment control. These BMPs shall be selected to achieve maximum sediment removal and represent the best available technology that is economically achievable. BMPs to be implemented as part of this mitigation measure shall include, but are not limited to, the following measures:

- Temporary erosion control measures, such as silt fences, staked straw bales/watters, silt/sediment basins and traps, check dams, geofabric, sandbag dikes, and temporary revegetation or other ground cover, shall be employed for disturbed areas;
- Dirt and debris shall be swept from paved streets in the construction zone on a regular basis, particularly before predicted rainfall events;
- Grass or other vegetative cover will be re-established on unpaved areas of the construction site as soon as possible after disturbance. In paved areas, any removed paving will be replaced as soon as possible; and
- Soil stockpiling sites will be located such that they do not drain directly into nearby surface water bodies.

**Mitigation Measure HYD-1c:** Comply with the General Order for Dewatering or Other Appropriate NPDES Permit. To minimize the impacts to water quality from dewatering activities, Regional San shall implement measures contained in the General Order for Dewatering or other appropriate NPDES permit or Waste Discharge Requirement.

**Mitigation Measure HYD-1d: Ensure Adequate Water Quality for Stones Lake NWR**

To avoid adverse impacts to Stones Lakes NWR, Regional San shall work with USFWS to ensure that recycled water is of suitable quality before water is provided to the Refuge. Recycled water shall not be supplied to the Refuge until water quality concerns are addressed. If needed and desired by USFWS, water quality enhancement could be provided through a treatment wetland

(a constructed wetland designed to remove nutrients from recycled water before discharge to the Refuge), which would be located in the Refuge.

**Mitigation Measure HYD-1e: Perform Detailed Analysis of Groundwater Impacts from Recharge Area and Diluent Wells**

As established by SWRCB Resolution No 68-16, Regional San would complete a two-step process to comply with the policy. The first step would be to determine if the discharge (groundwater recharge with recycled water) would degrade high quality water. If there is no degradation, then the project is allowed. If there is an anticipated degradation, the discharge may be allowed if any change in water quality (1) will be consistent with maximum benefit to the people of the State, (2) will not unreasonably affect present and anticipated beneficial use of such water, and (3) will not result in water quality less than that prescribed in state policies (e.g. water quality objectives in Water Quality Control Plans). The second step of the anti-degradation analysis would be to document any activities that result in discharges to such high quality waters and demonstrate that these discharges utilize the best practicable treatment or control of the discharge necessary to avoid a pollution or nuisance and to maintain the highest water quality consistent with the maximum benefit to the people of the State. The antidegradation analysis and groundwater evaluation would be conducted at the time the recharge element is defined, and the groundwater recharge element would only be implemented if recharge can be accomplished without substantially degrading groundwater quality.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measures HYD-1a, HYD-1b, HYD-1c, HYD-1d, and HYD-1e** will reduce impacts to a less-than-significant level by complying with relevant permits, implementing BMPs for sediment and erosion control, ensuring water quality before delivering to the refuge, and preparing an anti-degradation analysis.

**Impact HYD-4: Interfere with or Require Changes to CVP or SWP Operations**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** The following mitigation measure has been adopted by Regional San to reduce to less-than-significant levels the Project's hydrology and water quality impacts related to CVP or SWP operations:

**Mitigation Measure HYD-4: Coordinate Operations with Relevant Resource Agencies**

To minimize potential thermal impacts to the Sacramento River downstream of Lake Shasta during critically dry years due to losses of cold water storage from reduced treated wastewater

discharges, Regional San shall work with the Bureau of Reclamation and other relevant resource agencies to make appropriate operational changes in recycled water use and timing of discharge reductions in spring months when the cold water pool in Shasta is critical. In critically dry years when storage in Lake Shasta falls below 2,400,000 AF in April, Regional San will coordinate with Central Valley operations staff to reduce deliveries of recycled water to farmers in April and May if needed to avoid thermal impacts to the Sacramento River below Lake Shasta, as determined by the Sacramento River Temperature Model being utilized by Reclamation in the given year.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measure HYD-4e** will reduce impacts to a less-than-significant level by working with the Bureau of Reclamation and other resources agencies to time discharges to prevent interference, especially with thermal levels.

## **LAND USE AND AGRICULTURAL RESOURCES**

**Impact LUA-2: Land Use & Agriculture: Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance of Area Containing Prime Soils to Uses not Conducive to Agricultural Production, Conflict with Any Existing Williamson Act Contract, or Introduce Incompatible Uses in the Vicinity of Existing Agricultural Uses**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** The following mitigation measure has been adopted by Regional San to reduce to less-than-significant-levels the Project's land use and agricultural resources impacts related to converting prime farmland, unique farmland, or important farmland:

**Mitigation Measure LUA-2: Stockpile Soil.** In areas where the construction corridor would be located within agricultural lands, agriculture (on Important Farmlands/lands under Williamson Act contract) would be temporarily precluded for some portion of the construction period.

Regional San and/or its contractors shall stockpile topsoil removed during construction for later reuse. The soil shall be stored in a clear area of the construction site where it would not have the potential to affect agricultural or biological resources. Stockpiled soil shall be covered with a tarp at all times to prevent generation of fugitive dust. Following pipeline construction, soil shall be backfilled into the trench and restored to an appropriate level of compaction.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measure LUA-2** will reduce impacts to farmland to a less-than-significant level by preserving and replacing topsoil in the construction area.

## NOISE

**Impact NOI-1 – Noise: Result in Exposure of Persons to, or Generation of Noise Levels in Excess of Standards Established by the Local General Plan, Noise Ordinance or Applicable Standards of Other Agencies and Result in a Substantial Temporary Increase in Ambient Noise Levels in the Project Vicinity (Construction).**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** The following mitigation measure has been adopted by Regional San to reduce to less-than-significant levels the Project's noise impacts related to noise caused by construction activities:

- Heavy equipment and impact equipment use shall be restricted to daytime hours (7 a.m. to 7 p.m.).
- Construction staging areas shall be located as far as possible from existing residences.
- The project contractor shall be required to use impact tools (e.g., jack hammers, pavement breakers, and rockdrills) that are hydraulically or electrically powered wherever possible, to avoid noise associated with compressed air exhaust from pneumatically powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used, along with external noise jackets on the tools, which could reduce noise levels by as much as 10 dBA.
- Construction equipment noise shall be minimized during project construction by muffling and shielding intakes and exhaust on construction equipment per the manufacturers' specifications and by shrouding or shielding impact tools. All equipment shall have sound-control devices no less effective than those provided by the manufacturer.
- All stationary noise generating construction equipment shall be placed as far away as possible from sensitive receptors in an orientation minimizing noise impacts (e.g. behind barriers or storage piles).

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measure NOI-1** will reduce noise impacts

to a less-than-significant level by limiting construction hours and utilizing equipment and construction methods to minimize noise.

## **PUBLIC SERVICE AND UTILITIES**

### **Impact PUB-1: Impacts Associated with the Construction of New Water or Wastewater Treatment and Disposal Facilities or Expansion of Existing Facilities**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** Mitigation Measure HYD-1e, described under Impact HYD-1 above, has been adopted by Regional San for Impact PUB-1 to reduce to less-than-significant levels the Project's public service and utilities impacts related to building new water treatment facilities or expanding existing facilities.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measure HYD-1e** will reduce impacts to a less-than-significant level by requiring an anti-degradation analysis to determine if groundwater recharge with recycled water would degrade any high quality water, and utilize best practicable treatment or control of recycled water discharge without degrading groundwater quality, thus ensuring that recycled water would not result in the need for new water treatment facilities.

## **RECREATION**

### **Impact REC-1: Result in Direct Alteration of an Existing Recreational Facility or Disruption of Recreational Use**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** Mitigation Measures TR-1 and NOI-1, described under Impact TR-1 below and Impact NOI-1 above, have been adopted by Regional San for Impact REC-1 to reduce to less-than-significant levels the Project's recreation impacts on recreational facilities and uses.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measures TR-1 and NOI-1** will reduce impacts to a less-than-significant level by enforcing a traffic control plan and limiting noise created by Project construction activities.

## TRAFFIC AND TRANSPORTATION

**Impact TR-1: Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways, and freeways, pedestrian and bicycle paths, and mass transit.**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** The following mitigation measure has been adopted by Regional San to reduce to less-than-significant levels the Project's traffic and transportation impacts related to the effectiveness of the traffic circulation system:

**Mitigation Measure: TR-1 Traffic Management Plan.** A traffic management plan would minimize impacts on traffic as a result of construction activities. The TMP shall be prepared in accordance with the California Manual of Uniform Traffic Control Devices (California MUTCD) and all applicable requirements of Caltrans, the County of Sacramento Department of Public Works, and the City of Elk Grove Department of Public Works. The TMP shall be approved by the affected jurisdictions prior to construction and complied with at all times during construction of the project. The TMP shall be prepared by a qualified transportation engineer and would include but not be limited to the following measures:

- Define location and timing of any temporary lane or roadway closures.
- Obtain permits and identify oversize and overweight load haul routes. Transport of oversized loads on state, county, and city roads will require oversize/overload permits from Caltrans, Sacramento County and the City of Elk Grove. Transporters will follow state and county regulations for transportation of oversized and overweight loads. Such regulations typically include provisions for time of day, pilot cars, law enforcement escorts, speed limits, flaggers, and warning lights, which will be detailed in the respective oversized-load permits.
- Prepare Temporary Traffic Control (TTC) Plans for each site location. The construction contractor will submit any applicable pedestrian or traffic detour plans, to the satisfaction of the City/County Engineer, for any lane or sidewalk closures. The detour plan shall comply with Part 6, Temporary Traffic Control, of the California MUTCD, and standard construction practices. The TTC Plans will identify the need for flaggers for directing traffic, temporary signage, lighting, and traffic control devices, if required.
- Identify and provide for circumstances requiring the use of temporary traffic control measures, such as flag persons, warning signs, lights, barricades, and cones to provide safe work areas in the vicinity of the project site or along the haul routes, including for narrow

roadway segments, and to warn, control, protect, and expedite vehicular, bicycle, and pedestrian traffic and access by emergency responders.

- Schedule deliveries of heavy equipment and construction materials during periods of minimum traffic flow. The timing of deliveries shall be coordinated with Sacramento County and the City of Elk Grove.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measures TR-1** will reduce impacts to a less-than-significant level by enforcing a traffic control plan that will reduce congestion caused by construction activities.

**Impact TR-2: Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways.**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** **Mitigation Measure TR-1, as described above,** has been adopted by Regional San to reduce impacts to less-than-significant levels the Project's traffic and transportation impacts related to conflicting with congestion management programs.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measure TR-1** will reduce impacts to a less-than-significant level by enforcing a traffic management plan that will minimize impacts to traffic congestion and maintain access to transit, bicycle, and pedestrian facilities.

**Impact TR-3: Substantially increase hazards due to design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** **Mitigation Measure TR-1, as described above,** has been adopted by Regional San to reduce to less-than-significant levels the Project's traffic and transportation impacts related to increased hazards from a design feature or incompatible uses.



**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measure TR-1** will reduce impacts to a less-than-significant level by enforcing safety measures in the traffic control plan.

**Impact TR-4: Result in inadequate emergency access**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which reduce or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** **Mitigation Measure TR-1, as described above,** has been adopted by Regional San to reduce to less-than-significant levels the Project's traffic and transportation impacts related to emergency access.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measure TR-1** will reduce impacts to a less-than-significant level by ensuring access for emergency vehicles and creating an emergency evacuation plan.

**Impact TR-5 Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** **Mitigation Measure TR-1, as described above,** has been adopted by Regional San to reduce to less-than-significant levels the Project's traffic and transportation impacts related to conflicting with adopted policies, plans, or programs regarding public transit, bicycle, and pedestrian facilities.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measure TR-1** will reduce impacts to a less-than-significant level by ensuring access to public transit, bicycle, and pedestrian facilities during construction.

## **CUMULATIVE IMPACTS**

### **Biological Resources**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** **Mitigation Measures BIO-1a, BIO-1b, BIO-1c, BIO-1d, BIO-2, BIO-3, HYD-4, and BIO-5, as described above,** have been adopted by Regional San to reduce to less-than-significant levels the Project's contribution to cumulative impacts related to aquatic and terrestrial biological resources caused by the Project and other projects occurring in the same area.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measures BIO-1a, BIO-1b, BIO-1c, BIO-1d, BIO-2, BIO-3, HYD-4, and BIO-5** will reduce impacts to a less-than-significant level by reducing, avoiding, and compensating for impacts in accordance with the requirements of ESA and CESA and other regulatory programs that protect habitats, such as CWA Section 404, and in compliance with the Sacramento County General Plan goals and policies for resource protection. With full implementation of the above-mentioned Mitigation Measures, potential project-related impacts would be avoided, reduced, or compensated to such an extent that they are not expected to result in a considerable contribution to a cumulative impact. Therefore, the Project would not result in a cumulatively consideration contribution to a cumulatively significant impact to biological resources.

### **Cultural Resources**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** **Mitigation Measures CR-1a, CR-1b, CR-1c, and CR-2, as described above,** have been adopted by Regional San to reduce to less-than-significant levels the Project's contribution to cumulative impacts related to cultural resources and human remains caused by the Project and other projects occurring in the same area.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measures CR-1a, CR-1b, CR-1c, and CR-2, as described above,** will reduce impacts to a less-than-significant level by requiring any cultural resources or human remains discovered during project development to be preserved,

## Attachment A

notification to the proper authorities, and ceasing excavation and other project work in the same area.

### Hazards and Hazardous Materials

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** **Mitigation Measures HAZ-1 and TR-1, as described above,** have been adopted by Regional San to reduce to less-than-significant levels the Project's contribution to cumulative impacts related to hazards and hazardous materials posed by construction activities and the Project's operation and other projects occurring in the same area.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measures HAZ-1 and TR-1,** as described above, will reduce impacts to a less-than-significant level by conducting a Phase I hazardous waste and materials study for soil and groundwater contamination and implementing the study's recommendations before construction begins. The Mitigation Measures will also reduce the potential for unacceptable traffic delays and the potential to conflict with emergency vehicle access.

### Hydrology and Water Quality

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** **Mitigation Measure HYD-4, as described above,** has been adopted by Regional San to reduce to less-than-significant levels the Project's contribution to cumulative impacts related to the reduction in discharges on the Sacramento River watershed caused by the Project and other projects occurring in the Sacramento River watershed.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measure HYD-1,** as described above, will reduce impacts to a less-than-significant level by coordinating operations with relevant resource agencies to control deliveries and thermal impacts.

## Land Use and Agriculture

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale: Mitigation Measure LUA-2, as described above,** has been adopted by Regional San to reduce to less-than-significant levels the Project's contribution to cumulative impacts related to the changes in land use and prime, unique, and important farmland caused by the Project and other projects occurring in the same area.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measure LUA-2, as described above,** will reduce impacts to a less-than-significant level by removing and replacing topsoil at the Project site.

## Noise

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale: Mitigation Measure NOI-1, as described above,** has been adopted by Regional San to reduce to less-than-significant levels the Project's contribution to cumulative noise and vibration impacts caused by Project construction and other projects occurring in the same area.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measure NOI-1, as described above,** will reduce impacts to a less-than-significant level by limiting construction hours and minimizing noise from construction equipment.

## Recreation

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale: Mitigation Measures TR-1 and NOI-1, as described above,** have been adopted by Regional San to reduce to less-than-significant levels the Project's contribution to cumulative impacts to recreational uses and facilities impacts caused by Project construction and other projects occurring in the same area.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measures TR-1 and NOI-1**, as described above, will reduce impacts to a less-than-significant level by enforcing a traffic management plan to reduce potential congestion and ensure safety and minimizing noise from construction activities.

### **Transportation and Traffic**

**Finding:** Changes or alterations have been required in, or incorporated into, the project, by the CEQA Lead Agency, Regional San, which mitigate or avoid the significant effects on the environment, as identified in Regional San's certified EIR and adopted MMRP.

**Rationale:** **Mitigation Measure TR-1, as described above**, has been adopted by Regional San to reduce to less-than-significant levels the Project's contribution to cumulative transportation and traffic impacts caused by Project construction and other projects occurring in the same area.

**Conclusion:** Based on its independent review, the Commission concurs with Regional San's determination that the implementation of **Mitigation Measure TR-1**, as described above, will reduce impacts to a less-than-significant level by preparing a traffic management plan and developing measures to reduce traffic impacts caused by the Project.

### **III. SIGNIFICANT AND UNAVOIDABLE ADVERSE IMPACTS**

Regional San determined that no significant or unavoidable impacts would remain after implementation of the MMRP.

### **IV. ALTERNATIVES**

Regional San's Draft EIR evaluated three alternatives to the Project: Alternative 2 (No Reclamation Funding Alternative); Alternative 3 (Small Service Area Alternative); and Alternative 4 (No Project Alternative). The EIR concluded that Alternative 4 (No Project Alternative) would not result in any of the physical impacts, mostly due to construction and considered to be short-term, identified within the EIR. However, Regional San concluded in its EIR that Alternative 4 could have long-term adverse effects on the Cosumnes River base flows over the long-term and with continued drought, which could lead to restrictions in groundwater pumping, the lack of reliable water supply could also result in conversion of agricultural land to no agricultural use, which could be an adverse impact. Without the Proposed Project (Alternative 1), Regional San would continue to discharge a large majority of its Title 22 treated recycled water to the Sacramento River. While the No Project Alternative avoids construction impacts, given the long-term potential effects on the groundwater basin, Cosumnes River base

flows and agriculture, Regional San did not consider it to clearly be environmentally superior to the Proposed Project. Additionally, Alternative 4 (No Project Alternative) would not meet any of the Project objectives.

In CEQA, the evaluation of alternatives focuses on identifying alternatives that could minimize environmental impacts. CEQA requires evaluation of alternatives that “feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project” (CEQA Guidelines, Section 15126.6(a)). In developing alternatives, Regional San evaluated three options: Alternative 1 (Medium Service Area Alternative and the Proposed Project), Alternative 2 (No Reclamation Funding Alternative), and Alternative 3 (Small Service Area Alternative). In evaluating impacts of the three action alternatives, Regional San determined that most operational impacts were negligible, and the primary operational impact of concern is associated with the reduction in discharge to the Sacramento River. The majority of impacts were associated with construction, and all construction impacts were determined to be less than significant with implementation of mitigation. Alternative 1 (Medium Service Area Alternative) and 2 (No Reclamation Funding Alternative) would have the same physical impacts associated with both construction and operation. The only difference between Alternatives 1 and 2 is that under Alternative 2 Reclamation would not provide any funding.

The comparison of alternatives shows that Alternative 3 (Small Service Area Alternative) would have similar impacts to Alternatives 1 and 2, but the intensity of the construction-related effects would be somewhat less for Alternative 3. Due to fewer miles of pipelines compared to Alternative 1 (Medium Service Area Alternative), Alternative 3 is expected to result in a shorter construction duration, and thus slightly reduced short-term construction impacts. However, construction impacts associated with all action alternatives can be mitigated to a less-than-significant level.

Operational impacts of all of the action alternatives are also similar, but Alternative 3 would provide less recycled water, and would thus maintain a higher level of discharge to the Sacramento River than would Alternatives 1 and 2. However, with less use of recycled water, benefits to the groundwater basin would be less with Alternative 3. Because Regional San has committed to implementing Mitigation Measure HYD-4, to coordinate project operation with relevant resource agencies to make the appropriate operational changes in recycled water use and timing of discharge reductions. Mitigation Measure HYD-4 would decrease potential impacts of reduced discharge to less than significant. Thus because of its benefits to groundwater and surface water both locally and regionally, Regional San considered Alternative 1 (Medium Service Area Alternative) to be environmentally superior under CEQA.

The Commission has independently reviewed and analyzed each of the alternatives identified in the EIR. Implementation of each of the alternatives is within the jurisdiction of Regional San and not the Commission. The Commission finds that Regional San appropriately concluded that

Alternative 1 is the environmentally superior alternative. While Alternative 4 (No Project Alternative) would not result in any of the physical impacts examined in the EIR, it would have long-term adverse effects on the Cosumnes River base flows, potentially leading to restrictions in groundwater pumping, resulting in the conversion of agricultural land to no agricultural use. Alternative 4 (No Project Alternative) would also not meet the Project objectives. Consistent with CEQA Guidelines, section 15096(g)(2), the Commission does not find any feasible alternative within its powers that would substantially lessen or avoid any significant effect the Project would have on the environment.

#### **V. NO SUPPLEMENTAL OR SUBSEQUENT EIR IS REQUIRED**

The Commission finds that no supplemental or subsequent EIR is required. In particular, the Commission finds that there are no substantial changes in the circumstances surrounding the Project, and no new information of substantial importance, which gives rise to a new significant environmental impact or an increase in the severity of a previously identified significant impact. The Commission further finds that there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the respective EIR was certified, showing any of the following: (i) the project will have one or more significant effects not discussed in the EIR; (ii) significant effects previously examined will be substantially more severe than shown in the EIR; (iii) mitigation measures or alternatives found infeasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponent declines to adopt the mitigation measures; or (iv) mitigation measures which are considerably different from those analyzed in the EIR would substantially reduce one or more significant environmental effects, but the project proponent declines to adopt the mitigation measure or alternative.

#### **VI. MITIGATION MEASURES AND MMRP**

As mentioned in the discussion of Project impacts and mitigation measures above, Regional San has adopted a MMRP to guide implementation of all project mitigation measures by assigning implementation and reporting responsibilities. The MMRP lists all Project mitigation measures and reporting and is herewith incorporated by reference. The MMRP is provided as Exhibit F to the Final EIR, which is available at: [https://www.regionalsan.com/sites/main/files/file-attachments/feir\\_southcountyag\\_2-10-2017002\\_0\\_0.pdf?1554505775](https://www.regionalsan.com/sites/main/files/file-attachments/feir_southcountyag_2-10-2017002_0_0.pdf?1554505775)

No CEQA mitigation measures are being imposed for the approval of funding for the Harvest Water Program, so no MMRP is being required by the Commission.



**VII. STATEMENT OF OVERRIDING CONSIDERATIONS**

Because Regional San determined that no significant or unavoidable impacts would remain after implementation of the MMRP, a Statement of Overriding Considerations was not necessary.