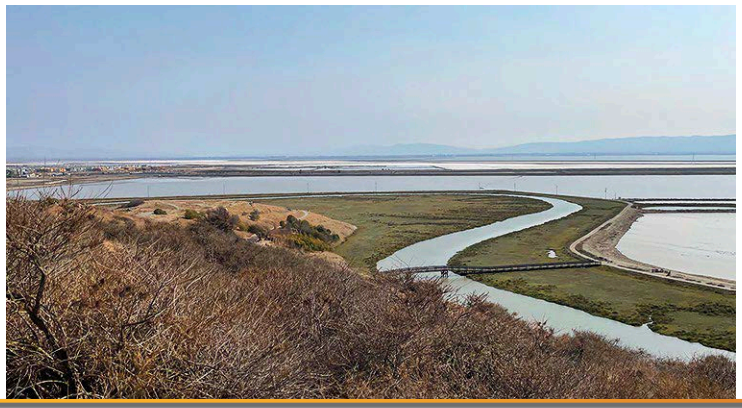






CEQA Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program

Cargill Mixed Sea Salts Processing and Brine Discharge Project

SCH No. 2022050436

Prepared for:

EBDA
EAST BAY DISCHARGERS AUTHORITY

July 2025

CEQA FINDINGS OF FACT, STATEMENT OF OVERRIDING CONSIDERATIONS, AND MITIGATION MONITORING AND REPORTING PROGRAM

Cargill Mixed Sea Salts Processing and Brine Discharge Project

SCH No. 2022050436

Prepared for:

East Bay Dischargers Authority
2651 Grant Avenue
San Lorenzo, CA 94580-1841

Contact:

Jackie Zipkin, PE
General Manager

Prepared by:

Ascent Environmental
2054 University Ave, Suite 400
Berkeley, CA 94704

Contact:

Nicole Greenfield
Environmental Planner

July 2025

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TABLE OF CONTENTS

Section		Page
LIST OF ABBREVIATIONS		II
1	INTRODUCTION	4
2	PROJECT DESCRIPTION	6
	2.1 Project Background	6
	2.2 Project Location	6
	2.3 Project Description	8
	2.4 Project Objectives	9
	2.5 Project Permits and Approvals	9
3	PROCEDURAL HISTORY	12
4	RECORD OF PROCEEDINGS	13
5	FINDINGS REQUIRED UNDER CEQA	14
	5.1 Less-than-Significant Impacts and Areas of No Impact	14
	5.2 Significant Impacts Sufficiently Reduced through Mitigation Measures	16
	5.3 Significant and Unavoidable Impacts	49
	5.4 Findings Regarding Project Alternatives	52
6	STATEMENT OF OVERRIDING CONSIDERATIONS	60
	6.1 Significant and Unavoidable Impacts	60
	6.2 Project Benefits	60
7	MITIGATION MONITORING AND REPORTING PROGRAM	62
8	REFERENCES	63

Attachments

Attachment A Mitigation Monitoring and Reporting Program

Figures

Figure 1 Project Location 7

Figure 3.4-1 Proposed Tribal Monitoring Area 40

LIST OF ABBREVIATIONS

AB	Assembly bill
ACFCWCD	Alameda County Flood Control and Water Conservation District
ACPWA	Alameda County Public Works Agency
ACWD	Alameda County Water District
BAAD	Bay Area Air District (formerly known as Bay Area Air Quality Management District)
Bay	San Francisco Bay
BCDC	San Francisco Bay Conservation and Development Commission
BMP	best management practice
Caltrans	California Department of Transportation
Cargill	Cargill, Incorporated
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFGC	California Fish and Game Code
CFR	Code of Federal Regulations
CNEL	community noise equivalent level
CUPA	Certified Unified Program Agency
dB	decibel
dBA	A-weighted decibels
DTSC	California Department of Toxic Substances Control
EBDA	East Bay Dischargers Authority
EBMUD	East Bay Municipal Utility District
EBRPD	East Bay Regional Park District
EIR	environmental impact report
EPA	US Environmental Protection Agency
ESA	Environmental Site Assessment
FEMA	Federal Emergency Management Agency
GHG	greenhouse gas
GSA	groundwater sustainability agency
HASP	health and safety plan
L_{dn}	day-night level
L_{eq}	equivalent continuous sound level

L_{max}	maximum sound level
MBTA	Migratory Bird Treaty Act
Member Agencies	City of San Leandro, Oro Loma Sanitary District, Castro Valley Sanitary District, City of Hayward, and Union Sanitary District
MMRP	mitigation monitoring and reporting program
MSS	mixed sea salts
MTC	Metropolitan Transportation Commission
NaCl	sodium chloride
NMFS	National Marine Fisheries Service
NOP	notice of preparation
NO_X	nitrogen oxides
NPDES	National Pollutant Discharge Elimination System
NWIC	Northwest Information Center
OLEPS	Oro Loma Effluent Pump Station
OSHA	Occupational Safety and Health Administration
PM_{10}	respirable particulate matter with an aerodynamic diameter of 10 micrometers or less
$PM_{2.5}$	fine particulate matter with an aerodynamic diameter of 2.5 micrometers or less
RCRA	Resource Conservation and Recovery Act
Refuge	Don Edwards San Francisco Bay National Wildlife Refuge
ROG	reactive organic gases
RWQCB	regional water quality control board
SamTrans	San Mateo County Transit District
SFBAAB	San Francisco Bay Area Air Basin
SR	state route
TAC	toxic air contaminant
UPRR	Union Pacific Railroad Company
USACE	US Army Corps of Engineers
USD	Union Sanitary District
USFWS	US Fish and Wildlife Service

1 INTRODUCTION

These findings have been prepared on behalf of the East Bay Dischargers Authority (EBDA). EBDA is the lead agency under the California Environmental Quality Act (CEQA) for the proposed Cargill Mixed Sea Salts Processing and Brine Discharge Project (proposed project), for which an environmental impact report (EIR) was prepared pursuant to CEQA (California Public Resources Code Section 21000 et seq.) and certified by the EBDA Commission on June 15, 2023 (Resolution No. 23-06). EBDA prepared the first addendum to the EIR in July 2025 to address new information that became known after the EIR was certified. Approval of a project with significant impacts requires that findings be made by the lead agency pursuant to CEQA and the State CEQA Guidelines (Sections 15043, 15091, and 15093). State CEQA Guidelines Section 15092(b) states that a public agency shall not approve or carry out a project for which an EIR was prepared and significant effects were identified unless significant effects would be mitigated to a less-than-significant level by the mitigation measures identified in the EIR or, if the EIR identifies residual significant impacts after implementation of mitigation measures, the agency finds that the unavoidable impacts are acceptable through a statement of overriding considerations, supported by substantial evidence in the record, which includes the documents, materials, and other evidence.

These findings are organized as follows:

- Findings for Less-Than-Significant Impacts and Areas of No Impact: This section provides EBDA's findings associated with impacts identified as "no impact" or "less than significant" in the EIR.
- Findings for Significant, Potentially Significant, and Cumulatively Significant Impacts Reduced to a Less-Than-Significant Level through Mitigation Measures: This section provides EBDA's findings with respect to impacts identified as significant or potentially significant or as cumulatively significant that would be reduced to a less-than-significant level through the adoption of feasible mitigation measures identified in the EIR. These findings are made pursuant to CEQA Section 21081(a) and State CEQA Guidelines Section 15091.
- Findings for Significant and Unavoidable Impacts: This section provides EBDA's findings with respect to impacts determined to be significant and unavoidable, even with the adoption of feasible mitigation measures. These findings are made pursuant to CEQA Section 21081(a) and State CEQA Guidelines Section 15091.
- Findings Associated with Project Alternatives: This section sets forth EBDA's findings with respect to alternatives to the project that were evaluated in the EIR. These findings are made pursuant to CEQA Section 21081(a) and State CEQA Guidelines Section 15091.
- Statement of Overriding Considerations: This section sets forth EBDA's statement of overriding considerations concerning the project and the acceptance of its significant and unavoidable impacts pursuant to CEQA Section 21081(b) and State CEQA Guidelines Section 15093.
- Mitigation Monitoring and Reporting Program: This section introduces the mitigation monitoring and reporting program (MMRP) for mitigation measures proposed for adoption. In adopting these findings, EBDA, as lead agency under CEQA, commits to implement the MMRP pursuant to State CEQA Guidelines Section 15097. However, Cargill, Incorporated (Cargill), as project proponent, would ultimately execute many of the mitigation actions. The MMRP is included as Attachment A to these findings.

CEQA Section 21081 and CEQA Guidelines Section 15091 state that no public agency shall approve or carry out a project for which a certified EIR identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings, which must be supported by substantial evidence in the record, are:

(1) Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the EIR.

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

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

When making the findings required in item (1), the agency shall also adopt a program for reporting on or monitoring the changes or alterations required in the project to avoid or substantially lessen significant environmental effects (i.e., mitigation measures). These mitigation measures must be fully enforceable through permit conditions, agreements, or other mechanisms.

The mitigation measures required of the proposed project are listed in the MMRP (Attachment A). The MMRP is adopted concurrently with these findings, as required by CEQA Section 21081.6(a)(1), and will be implemented throughout all phases of the project, including design, construction, and operation. EBDA will use the MMRP to track compliance with all mitigation measures.

These findings constitute EBDA's evidentiary and policy basis for its decision to approve the proposed project in a manner consistent with CEQA. These findings are not merely informational but constitute a binding set of obligations that will come into effect when EBDA approves the project (CEQA Section 21081.6[b]). The mitigation measures identified as feasible and within EBDA's authority to implement for the approved project become part of the MMRP, and EBDA will enforce implementation of the mitigation measures. EBDA, upon review of the Final EIR (which includes the Draft EIR and EIR Addendum) and based on all the information and evidence in the administrative record, hereby makes the findings set forth herein. These findings are based on substantial evidence in the entire administrative record, and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

2 PROJECT DESCRIPTION

2.1 PROJECT BACKGROUND

EBDA is a Joint Powers Public Agency consisting of five local agencies: City of San Leandro, Oro Loma Sanitary District, Castro Valley Sanitary District, City of Hayward, and Union Sanitary District (Member Agencies). EBDA owns and operates three effluent pump stations, a dechlorination facility, and an effluent pipeline/force main and outfall system to manage treated effluent from its member agencies' wastewater treatment plants and discharge the effluent through its common outfall and diffuser into a deep-water portion of the central San Francisco Bay (Bay) under a National Pollutant Discharge Elimination System (NPDES) permit.

Cargill operates a solar sea salt production facility (Solar Salt Facility) in Newark, California. The Solar Salt Facility produces sodium chloride (NaCl) (i.e., table salt) and liquid bittern (concentrated magnesium chloride brine) from Bay water. Bay water is evaporated in a series of salt ponds along the margin of the Bay, thereby concentrating the salts until they become saturated and precipitate from solution. The majority of the NaCl is crystalized and then processed and packaged to individual customers' specifications. The remaining brine is further evaporated through a series of ponds to achieve the concentrated magnesium chloride brine product also known as liquid bittern, which is harvested to produce additional commercial products used for road de-icing, dust suppression, animal feed, and other uses. The additional evaporation of the brine also results in crystallization of other salts in sea water, which are not marketed. These salts are referred to as mixed sea salts (MSS). The MSS are stored in ponds adjacent to the Bay at the Solar Salt Facility. Currently, there are approximately 6 million tons of MSS stored in these ponds. Cargill estimates that its existing operations increase the MSS inventory by approximately 60,000 tons annually.

Facing the potential long-term threat of sea level rise from the Bay, Cargill is proposing to implement innovative technology to enhance extraction of additional salts from the MSS inventory and then dissolve residual MSS in Bay water to produce a brine that could be pumped into EBDA's effluent conveyance system. In EBDA's conveyance system, the brine would be blended with and further diluted by EBDA Member Agency effluent and then discharged back into the Bay in accordance with EBDA's NPDES permit. Through this process, the volume of brine and precipitated salts stored in ponds closest to the Bay at the Solar Salt Facility in Newark would be reduced. Therefore, with implementation of the proposed project, Cargill would be accelerating and enhancing the recovery of commercial product from the MSS inventory and proactively addressing the threat of sea level rise at the same time.

2.2 PROJECT LOCATION

Proposed project features are located in the eastern San Francisco Bay Area, including portions of San Lorenzo, an unincorporated community in Alameda County, and portions of the Cities of Hayward, Union City, Fremont, and Newark. Specifically, project improvements would be constructed at Cargill's Solar Salt Facility, located at 7220 Central Avenue in Newark, California, and primarily within roadway rights-of-way between the Solar Salt Facility and the Oro Loma Sanitary District/Castro Valley Sanitary District Water Pollution Control Plant in San Lorenzo (Figure 1). The MSS are primarily situated in Ponds 12 and 13 of Cargill's Solar Salt Facility, which are located within the US Fish and Wildlife Service's (USFWS's) Don Edwards San Francisco Bay National Wildlife Refuge (Refuge). In 1979, Cargill transferred this real property, along with additional acreage, through a condemnation process and retained perpetual rights to continue sea salt operations within 8,000 acres of the Refuge, including Ponds 12 and 13.



Source: Data received from AECOM and Jacobs in 2021 and 2022; adapted by Ascent in 2023

Figure 1 Project Location

2.3 PROJECT DESCRIPTION

The proposed project would enable the enhanced processing and removal of MSS in Ponds 12 and 13 at the Solar Salt Facility by harvesting additional liquid bittern from the MSS matrices in these ponds as commercial product, dissolving the residual MSS solids in the ponds using Bay water, and transferring the resulting brine to EBDA's effluent pipeline for discharge into the Bay under EBDA's NPDES permit. Harvesting the liquid bittern and final disposition of the residual MSS brine would not require the use of any chemicals. It is anticipated that the MSS brine would be discharged to the EBDA system at a rate of up to 2.0 million gallons per day. Based on this estimated flow rate, the harvesting and discharge of the inventory of MSS is projected to require a 10- to 15-year timeframe. Discharge of the MSS brine by Cargill to the EBDA system would be subject to an agreement between EBDA and Cargill. The EBDA Joint Powers Public Agency Agreement term will expire on June 30, 2040. Therefore, the proposed project either would terminate on or before that date or could continue under a renegotiated agreement.

The proposed project has an on-site component of pipelines and pumping facilities in the existing Solar Salt Facility and an off-site component that would involve construction of approximately 15.6 miles of new underground pipeline primarily within roadway rights-of-way to connect the Solar Salt Facility into EBDA's system just downstream of the Oro Loma Sanitary District/Castro Valley Sanitary District Water Pollution Control Plant in San Lorenzo.

The proposed project consists of the following components:

- Dissolution Water Pond and Plummer Creek Pump Station. A new pump station would be installed to pump water indirectly from Plummer Creek to a new dissolution water pond.
- Dissolution Water Pump Station and Distribution System. A new dissolution water pump station would be constructed as a cast-in-place slab-on-grade facility located at the dissolution water pond and connected to an on-site high-density polyethylene piping distribution system installed above grade along the internal slope of the existing berms to deliver dissolution water to micro-trenches excavated in the crystallized salt layer above the Bay mud in Ponds 12 and 13 for MSS processing.
- Two MSS Brine Pump Stations. New MSS brine pump stations would be constructed at Ponds 12 and 13 as cast-in-place slab-on-grade pump stations to pump the resultant brine out of the processing ponds and into the off-site brine discharge pipeline.
- Liquid Bittern Recovery Pumps. During the processing of Pond 12, sections of the pond would be temporarily isolated using vinyl sheet piling to enable liquid bittern recovery. Two new pipelines would be installed along the internal slope of the berm on the northern shore of Pond 12: (1) a 12-inch header pipe to deliver dissolution water to Pond 12 and (2) a 4-inch pipe to transfer liquid bittern from Pond 12 to Pond 13, where it would be further processed and harvested as commercial product. After Pond 12 processing is complete, MSS processing would be initiated in Pond 13, and Pond 12 would be converted back to liquid bittern harvesting. To facilitate Pond 13 processing, two new pipelines similar to the ones described for Pond 12 would be installed along the internal slope of the berm on the southern side of Pond 13 to transfer liquid bittern from Pond 13 to Pond 12.
- Rainwater Decanting. A new weir box structure, which includes a weir plate (barrier) to control the flow of water, and a pipe would be installed at the northeastern corner of Pond 13 to enable decanting of rainwater from the surface of Pond 13 to supplement dissolution water for Pond 12.
- MSS Brine Transport Pipeline. An 18-inch (outside diameter) MSS brine transport pipeline would be constructed and extend north primarily along roadway rights-of-way for approximately 15.6 miles from the Solar Salt Facility to the Oro Loma Effluent Pump Station (OLEPS), located at the Oro Loma Sanitary District/Castro Valley Sanitary District Water Pollution Control Plant in San Lorenzo. Based on current design, the MSS brine transport pipeline would be located within portions of Thornton Avenue, Paseo Padre Parkway, Ardenwood Boulevard, Union City Boulevard, Hesperian Boulevard, Eden Shores Boulevard, Marina Drive, Industrial Boulevard, Baumberg Avenue, Arden Road, Corporate Avenue, Investment Boulevard, Production Avenue, Clawiter Road, West Winton Avenue, and Corsair Boulevard.

- MSS Brine Discharge to the EBDA System. The MSS brine transport pipeline would tie into EBDA's effluent conveyance system immediately downstream of the Oro Loma Sanitary District/Castro Valley Sanitary District Water Pollution Control Plant in San Lorenzo by connection to the pump discharge manhole approximately 75 feet north and downstream of the OLEPS. The MSS brine would then be combined with the treated wastewater effluents from the other agencies that discharge into the EBDA system before being discharged back to the Bay.

2.4 PROJECT OBJECTIVES

As set forth in the EIR, the objectives that EBDA and the applicant seek to achieve with the proposed project are as follows:

- Provide wastewater disposal capacity and services to Cargill in a manner that provides economic advantage to EBDA Member Agencies, with emphasis on offsetting and reducing expenses to EBDA and its ratepayers, and furthers the purpose and goals of EBDA's Joint Powers Agreement.
- Further EBDA's sustainability objectives, including those in support of reclamation and reuse of wastewater, by creating or facilitating the creation of permanent infrastructure available for future regional water recycling efforts by EBDA and/or EBDA Member Agencies.
- Balance any impacts due to disruption to local jurisdictions with impacts to sensitive environments.
- Develop new infrastructure to process MSS brine with minimal exposure to disruptions, including connecting with and optimizing existing EBDA infrastructure to use EBDA's excess capacity for processing and blending MSS brine.
- Utilize strategic connection to an existing deep-water outfall to minimize impacts to water quality and aquatic resources in receiving waters associated with the discharge of residual MSS brine.
- Facilitate the timely harvest of liquid bittern from the MSS in Cargill's Solar Salt Facility on-site ponds and ensure that MSS brine is efficiently, sustainably, and responsibly handled at all stages, including collection, transmission, and disposal.
- Prevent operational and environmental impacts of Bay water overtopping the berms surrounding MSS ponds due to sea level rise.

2.5 PROJECT PERMITS AND APPROVALS

2.5.1 EBDA Discretionary Approvals

The following actions are referred to collectively as the project approvals:

- adoption of these findings, the statement of overriding considerations, and the MMRP (proposed); and
- approval of the project (proposed).
- Project approval would occur in two parts. EBDA and Cargill are initially seeking to enter into a Project Approval Agreement that would provide the authorization for Cargill to construct the pumping facilities, distribution system for dissolution water, and related equipment within its Solar Salt Facility. Construction of all remaining project components would be contingent upon future project approvals and authorizations (identified below), including an Operating Agreement between EBDA and Cargill.

2.5.2 Permit and Resource Agency Approvals

The following lists identify the permits and resource agency approvals potentially required before proposed project implementation.

FEDERAL

- US Army Corps of Engineers (USACE): Clean Water Act Section 404 permit
- USFWS: Endangered Species Act, Section 7 consultation through the federal lead agency (USACE); notification and location approval pursuant to Cargill's reserved rights and related agreements pursuant to the 1979 condemnation action covering Ponds 12 and 13, among other acreage; approval of temporary trail closures within or access interruptions to the Refuge
- National Marine Fisheries Service (NMFS): Endangered Species Act, Section 7 consultation and Magnuson-Stevens Fishery Conservation and Management Act essential fish habitat consultation through the federal lead agency (USACE)

STATE

- San Francisco Bay Conservation and Development Commission (BCDC): BCDC permit and Coastal Zone Management Act consistency determination
- San Francisco Regional Water Quality Control Board (RWQCB): Clean Water Act Section 401 Water Quality Certification; NPDES construction stormwater permit (Notice of Intent to proceed under General Construction Permit), discharge permit for stormwater, general order for dewatering
- California Department of Fish and Wildlife (CDFW): California Fish and Game Code (CFGC) Section 2081 Incidental Take Permit for California Endangered Species Act–listed species; CFGC Section 1602, Lake and Streambed Alteration Agreement
- California Department of Transportation: Encroachment permits for activities affecting state highways
- California State Lands Commission (CSLC): Land leases for public trust lands
- Office of Historic Preservation: National Historic Preservation Act Section 106 consultation through the federal lead agency (USACE)

LOCAL

- Alameda County Flood Control and Water Conservation District (ACFCWCD): Easements, licenses and/or encroachment permits for crossing flood control/engineered channels and storm drains
- Alameda County Public Works Agency (ACPWA): Routine development permits, such as grading and noise permits; easements or encroachment permits for crossing streets, bridges, and flood control facilities, such as stormwater conveyance infrastructure; drilling and well permits for subsurface drilling activities within the city of Hayward and unincorporated areas of Alameda County
- Alameda County Water District (ACWD): Drilling permits for subsurface drilling activities within the cities of Fremont, Newark, and Union City; approval of activities subject to ACWD Ordinance No. 2010-01 (Well Ordinance); review and approval of dewatering plans
- Bay Area Air District (BAAD), formerly known as Bay Area Air Quality Management District (BAAQMD): Permit to construct and permit to operate
- Cities of Newark, Fremont, Union City, and Hayward: Routine development permits, such as encroachment, grading, and noise permits, and agreements for private pipeline placement in public rights-of-way under the Franchise Act of 1937 and the Charter of the City of Hayward
- East Bay Dischargers Authority (EBDA): Project Approval Agreement and Operating Agreement with Cargill
- East Bay Regional Park District (EBRPD): Easement, license and/or encroachment permit for activities on EBRPD lands; approval for temporary trail closures or access interruptions

- San Mateo County Transit District (SamTrans): Easement, license and/or encroachment permit or other limited easement or access agreement for crossing underneath the Dumbarton Rail Corridor owned by SamTrans, to the extent Cargill does not have an existing easement for such a crossing
- Union Pacific Railroad Company (UPRR): Plan approval by Chief Engineer of UPRR for crossing underneath rail lines owned by UPRR
- Union Sanitary District (USD): Encroachment permit and/or agreements for activities within USD rights-of-way, including horizontal directional drill crossings; conditional discharge permit for dewatering activities that require discharge into the USD sanitary sewer system
- San Francisco Public Utilities Commission: Easement, license and/or encroachment permits for crossing Hetch Hetchy Aqueduct and Bay Tunnel, to the extent Cargill does not have an existing easement for such a crossing

3 PROCEDURAL HISTORY

- EBDA prepared and on May 20, 2022, filed a notice of preparation (NOP) for a Draft EIR for the proposed project. A revised NOP was distributed on July 8, 2022, because of a change in the location of part of the project (specifically, a portion of the pipeline alignment). Both NOPs were sent to responsible agencies, interested parties, and organizations, as well as private organizations and individuals that may have an interest in the proposed project. The NOP was available at EBDA's office at 2651 Grant Avenue in San Lorenzo, California, and online at https://ebda.org/projects/cargill-partnership/. In addition, availability of the NOP was advertised in the *Alameda Times-Star*.
- EBDA held a public scoping meeting that was hosted online via Zoom, starting at 6:00 p.m. on June 1, 2022. At the meeting, a presentation was given to describe the proposed project and discuss key environmental issues identified in preliminary analyses. Public agencies and members of the public were given an opportunity to provide input on the scope of issues that should be addressed in the EIR.
- EBDA prepared and on January 4, 2023, distributed the Draft EIR for the project for a 45-day public review and comment period, which concluded on February 17, 2023. The Draft EIR was posted at the State Clearinghouse, and the notice of availability of the Draft EIR was mailed to relevant public agencies, responsible and trustee agencies, and interested parties. The Draft EIR was available for public review at EBDA's office at 2651 Grant Avenue in San Lorenzo, California, and online at https://ebda.org/projects/cargill-partnership/. In addition, availability of the Draft EIR was advertised in the *Alameda Times-Star*.
- EBDA held a public meeting to present the findings from and receive comments on the Draft EIR. The meeting was hosted online via Zoom, starting at 6:00 p.m. on January 24, 2023.
- During the review period, written comments were received on the Draft EIR from 12 different entities: one tribe, 10 agencies, and one organization. No oral comments were received at the public meeting. The agencies and organizations that submitted comments are listed in Table 3-1 of the Final EIR. The Final EIR contains responses to these comments, including a transcription of each comment and the complete comment letter. In response to the comments received, revisions to the Draft EIR were made as set forth in Chapter 4 of the Final EIR. The Final EIR was provided to each commenting agency on June 5, 2023.
- Pursuant to Public Resources Code section 21081 and CEQA Guidelines section 15090, on June 15, 2023, EBDA certified: (1) The Final EIR had been completed in compliance with CEQA; (2) The Final EIR was presented to the EBDA Board, and that the EBDA Board reviewed and considered the information contained in the final EIR prior to any approval or authorization of the project; and (3) The Final EIR reflected EBDA's independent judgment and analysis.
- EBDA and Cargill are now seeking to enter into a Project Approval Agreement to provide authorization for commencement of the project. However, EBDA determined that minor technical changes and additions to the certified EIR were necessary in response to new information that became known after the EIR was certified (i.e., changes in listing status under the California Endangered Species Act for species with potential to occur in the project area). In July 2025, EBDA prepared an EIR Addendum (2025 Addendum) to address this new information pursuant to Section 15164 of the State CEQA Guidelines.

4 RECORD OF PROCEEDINGS

In accordance with CEQA Section 21167.6(e), the record of proceedings for EBDA's decision on the proposed project includes, without limitation, the following documents:

- the NOPs (May 20, 2022, revised July 8, 2022) and all other public notices issued by EBDA in conjunction with the scoping period for the Draft EIR on the proposed project (the NOPs are provided in Appendix A of the Draft EIR);
- all comments submitted by agencies, organizations, and members of the public during the scoping period in response to the NOP (provided in Appendix A of the Draft EIR);
- the Draft EIR (January 4, 2023) for the project (State Clearinghouse No. 2022050436);
- all comments submitted by agencies, organizations, and members of the public during the comment period on the Draft EIR (the comments are transcribed in Chapter 3 of the Final EIR, and the full comment letters are provided in Appendix B of the Final EIR);
- the Final EIR for the project (June 5, 2023), which includes comments received on the Draft EIR, responses to those comments, revisions to the Draft EIR, and the 2025 Addendum (July 2025);
- documents cited or refenced in the Draft EIR, Final EIR, and the 2025 Addendum;
- the MMRP for the project (Attachment A to these findings);
- all findings and resolutions adopted by EBDA in connection with the project and all documents cited or referred to therein;
- all reports, studies, memoranda, maps, staff reports, or other planning documents related to the project prepared by EBDA, consultants to EBDA, and responsible or trustee agencies with respect to EBDA's compliance with the requirements of CEQA and with respect to EBDA's action on the project;
- all documents submitted to EBDA by other public agencies or members of the public in connection with the project up through final consideration of project approval;
- all minutes and/or verbatim transcripts, as available, of all public meetings held by EBDA in connection with the project;
- any documentary or other evidence submitted to EBDA at such public meetings; and
- any other materials required to be in the record of proceedings by CEQA Section 21167.6(e).

The official custodian of the documents that make up the record of proceedings is EBDA. All files have been made available to the EBDA Commission in considering these findings and whether to approve the project. These documents are available upon request for public review at EBDA's office at 2651 Grant Avenue in San Lorenzo, California. The Draft EIR, Final EIR, and EIR appendices are available online at https://ebda.org/projects/cargill-partnership/.

5 FINDINGS REQUIRED UNDER CEQA

Sections 5.1 through 5.4, below, present EBDA's findings with respect to the environmental impacts of the project pursuant to the requirements of CEQA Section 21081 and State CEQA Guidelines Sections 15091 and 15097.

The Final EIR, consisting of the Draft EIR, comments on the Draft EIR, responses to comments on the Draft EIR, revisions to the Draft EIR, remaining contents of the Final EIR, and the 2025 Addendum is hereby incorporated by reference into these findings without limitation. This incorporation is intended to address the scope and nature of mitigation measures, the basis for determining the significance of impacts, the comparative analysis of alternatives, and the reasons for approving the project despite the potential for associated significant and unavoidable impacts.

5.1 LESS-THAN-SIGNIFICANT IMPACTS AND AREAS OF NO IMPACT

The EBDA Commission agrees with the characterization in Section 3.1.1, "Effects Found Not to Be Significant," of the Draft EIR with respect to the resource areas for which the project would result in no impact. The EBDA Commission agrees with the characterization of impacts identified as less than significant in Chapter 3, "Environmental Impacts and Mitigation Measures," and Chapter 4, "Cumulative Impacts," of the Draft EIR and finds that those impacts have been described accurately and would be less than significant as so described in the EIR. The EBDA Commission also agrees with determinations made in "Issues Not Discussed Further" sections in Chapter 3 of the Draft EIR that the identified issues and thresholds of significance are not applicable to the proposed project or that the project would have no impact related to the identified thresholds.

This finding applies to the following impacts evaluated in the EIR, each determined to have no impact or a less-than-significant impact (no mitigation required).

5.1.1 Air Quality, Draft EIR Section 3.2

- Impact 3.2-2: Potential to Generate Long-Term Operational Emissions of ROG, NO_X, PM_{10}, and $PM_{2.5}$ in Exceedance of Thresholds
- Impact 3.2-3: Potential to Expose Sensitive Receptors to TACs

5.1.2 Cultural and Tribal Cultural Resources, Draft EIR Section 3.4

- Impact 3.4-1: Potential to Cause a Substantial Adverse Change in the Significance of a Historical Resource
- Impact 3.4-4: Potential to Disturb Human Remains

5.1.3 Geology, Soils, Mineral Resources, and Paleontological Resources, Draft EIR Section 3.5

- Impact 3.5-1: Potential to Expose People or Structures to Substantial Adverse Impacts from Seismic or Geologic Hazards
- Impact 3.5-2: Potential to Result in Substantial Soil Erosion or the Loss of Topsoil
- Impact 3.5-3: Potential to Result in Landslide, Lateral Spreading, Subsidence, Liquefaction, or Collapse
- Impact 3.5-4: Potential to Locate Project Facilities on Expansive Soil, Creating Substantial Direct or Indirect Risks to Life or Property
- Impact 3.5-5: Potential to Result in the Loss of Availability of Regionally Significant Mineral Resources or a Locally Important Mineral Resource Recovery Site

5.1.4 Greenhouse Gas Emissions and Climate Change, Draft EIR Section 3.6

- Impact 3.6-1: Potential to Generate GHG Emissions during Construction and Operation of the Proposed Project

5.1.5 Hazards and Hazardous Materials, Draft EIR Section 3.7

- Impact 3.7-1: Potential to Create a Significant Hazard to the Public or the Environment through the Routine Transport, Use, or Disposal of Hazardous Materials
- Impact 3.7-2: Potential to Create a Significant Hazard to the Public or the Environment through Reasonably Foreseeable Upset and/or Accident Conditions Involving the Release of Hazardous Materials into the Environment
- Impact 3.7-3: Potential to Emit Hazardous Emissions or Handle Hazardous or Acutely Hazardous Materials, Substances, or Waste within One-Quarter Mile of an Existing or Proposed School
- Impact 3.7-5: For a Project Located in an Airport Land Use Plan or, Where Such a Plan Has Not Been Adopted, within 2 Miles of a Public Airport or Public Use Airport, Potential to Result in a Safety Hazard or Excessive Noise for People Residing or Working in the Project Area
- Impact 3.7-6: Potential to Impair Implementation of or Physically Interfere with an Adopted Emergency Response Plan or Emergency Evacuation Plan

5.1.6 Hydrology and Water Quality, Draft EIR Section 3.8

- Impact 3.8-2: Potential to Violate Any Water Quality Standards or Waste Discharge Requirements or Substantially Degrade Surface Water or Groundwater Quality during Operation
- Impact 3.8-4: Potential to Substantially Alter the Existing Drainage Pattern of the Area, Including through the Alteration of the Course of a Stream or River, in a Manner That Would Result in Substantial Erosion or Siltation On- or Off-Site, Result in Flooding On- or Off-Site, Create or Contribute Runoff Water That Would Exceed the Capacity of Existing or Planned Storm Water Drainage Systems or Provide Additional Sources of Polluted Runoff, or Impede or Redirect Flood Flows

5.1.7 Noise and Vibration, Draft EIR Section 3.9

- Impact 3.9-2: Potential to Expose Sensitive Receptors to Construction Vibration
- Impact 3.9-3: Potential to Generate Long-Term Substantial Stationary Noise from Pump Station Operations

5.1.8 Recreation, Draft EIR Section 3.10

- Impact 3.10-2: Potential to Increase the Use of Existing Parks or Other Recreational Facilities during Project Operations Such That Physical Deterioration Would Occur or Be Accelerated

5.1.9 Cumulative Impacts, Draft EIR Chapter 4

- Cumulative impact related to emissions of criteria air pollutants
- Cumulative impact related to toxic air contaminants
- Cumulative impact on biological resources

- Cumulative impact on archaeological resources and tribal cultural resources
- Cumulative impact related to seismic and geologic hazards
- Cumulative impact related to erosion and loss of topsoil
- Cumulative impact on mineral resources
- Cumulative impact on greenhouse gas emissions and global climate change
- Cumulative impact related to hazards and hazardous materials
- Cumulative impact related to the release of pollutants due to flooding
- Cumulative impact on surface and ground water quality
- Cumulative impact related to the violation of water quality objectives
- Cumulative impact related to construction vibration
- Cumulative impact related to operational noise (stationary)
- Cumulative impact on recreation

5.2 SIGNIFICANT IMPACTS SUFFICIENTLY REDUCED THROUGH MITIGATION MEASURES

The EBDA Commission agrees with the characterization in the EIR with respect to all impacts identified as "significant" or "potentially significant" that would be reduced to a less-than-significant level with implementation of the mitigation measures identified in the EIR and MMRP. In accordance with State CEQA Guidelines Section 15091(a), a specific finding is made for each impact and its associated mitigation measures in the discussions below.

5.2.1 Air Quality, Draft EIR Section 3.2

Impact 3.2-1: Potential to Generate Emissions of Criteria Air Pollutants and Precursors during Project Construction

Implementation of the project would generate construction emissions of ROG, NO_X, PM_{10}, and $PM_{2.5}$ from off-road equipment use, material and equipment delivery trips, worker commute trips, and other, miscellaneous activities. The project would be required to implement BAAD's construction best management practices and would use Tier 4 equipment. The project's emissions of ROG and PM_{10} and $PM_{2.5}$ exhaust would not exceed BAAD's mass emissions thresholds for either year of construction; however, emissions of NO_X would exceed thresholds in both years with incorporation of Tier 4 engines. This impact would be **significant**.

Findings

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the EIR. The following mitigation measure reduces the significant project impact on air quality to less than significant.

Mitigation Measure 3.2-1: Contribute Funding to an Off-Site Mitigation Program

BAAD considers the use of an off-site mitigation program as a feasible mitigation measure (BAAD 2012). This mitigation strategy has been implemented by land use projects throughout the state as a means to reduce a project's significant air quality impacts to a less-than-significant level. The project has already incorporated Tier 4 final engines to reduce NO_X emissions, which is a common and feasible measure known to reduce NO_X emissions greatly. However, the project's emissions would continue to exceed BAAD's thresholds of significance for NO_X.

The project applicant shall provide funding to a program or programs within the SFBAAB that reduce NO_X emissions. BAAD oversees several programs and funds to reduce emissions. Examples include the Carl Moyer Memorial Program, which provides grants to upgrade or replace heavy-duty diesel vehicles and equipment, including on- and off-road vehicles and equipment, school buses, agricultural equipment, marine vessels, and locomotives. Other options that the project applicant may consider to reduce NO_X emissions include the Mobile Source Incentive Fund, the Transportation Fund for Clean Air, and the Goods Movement Program. The project applicant shall provide funding to at least one, or more, of these programs to reduce construction-generated NO_X emissions for each year of construction adequately to offset the exceedance of the BAAD NO_X threshold as verified by BAAD. The cost to mitigate shall be determined when the project applicant chooses to engage in any of the aforementioned programs, but that cost shall be sufficient to reduce NO_X emissions sufficiently to meet BAAD's thresholds of significance, as verified by BAAD.

Facts in Support of Findings

The EIR analysis of the project determined that with the implementation of Mitigation Measure 3.2-1, impacts on air quality would be reduced to less than significant. Implementation of Mitigation Measure 3.2-1 would ensure that construction emissions of criteria air pollutants and precursors would not exceed BAAD's mass emissions thresholds. Specifically, this measure would reduce emissions of NO_X during project construction through contribution of funding to support SFBAAB-based pollution reductions programs, avoiding the potential for individuals to be exposed to unhealthy concentrations of criteria air pollutants that could result in adverse health outcomes. Implementation of this mitigation measure will be enforced through the MMRP; compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.

5.2.2 Biological Resources, Draft EIR Section 3.3

Impact 3.3-1: Potential 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 CDFW or USFWS

Potential temporary disturbance of special-status fish, birds, terrestrial mammals, invertebrates, and plants may occur from construction of the project. This may include direct disturbance, injury, or mortality of individuals; or indirect disturbance resulting in adverse effects such as nest abandonment. Additionally, directional drilling to construct the MSS brine transport pipeline could result in accidental frac-out which could directly impact fish or degrade habitat for special-status species. Due to the sensitivity of potentially affected special-status species and that the loss of special-status species could substantially affect the abundance, distribution, and viability of populations of these species, this impact would be potentially significant.

Findings

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the EIR. The following mitigation measures reduce the potentially significant project impact on biological resources to less than significant.

Solar Salt Facility Improvements – Birds

Mitigation Measure 3.3-1: Implement Standard Avoidance and Minimization Measures for Biological Resources

- All construction personnel will visually check for wildlife beneath vehicles and construction equipment before moving or operating them. If an animal is discovered and does not leave the site on its own, personnel will contact the project biologist for direction before using equipment.
- Confine all heavy equipment, vehicles, and construction activities to existing access roads, road shoulders, and disturbed/developed or designated work areas. Limit work areas to what is necessary for construction.

- Minimize grading and vegetation removal along access roads and construction work areas.
- Do not allow pets, hunting, open fires, or firearms at the project site.
- During project activities, properly contain all trash that may attract predators in covered garbage receptacles and remove the trash from the site daily. Following construction, all trash and construction debris from project sites will be removed.
- Use only tightly woven netting or similar material for all geo-synthetic erosion control materials such as coir rolls and geo-textiles. No plastic monofilament matting will be used.
- If night work is conducted, all nighttime lighting will be focused on construction activities and directional shields will be used to direct lighting away from natural habitats.

Mitigation Measure 3.3-2: Provide Worker Environmental Awareness Training

A USFWS- or CDFW-approved biologist (as applicable) will develop an environmental training and will present the training to all crew members before they begin work on the project. The training will include a description of special-status species with potential to occur, life history and habitat associations, general measures that are being implemented to conserve the species as they relate to the project, the terms and conditions of project permits, penalties for noncompliance, the boundaries of the construction areas, and the boundaries of environmentally sensitive areas. A handout will be provided to all participating personnel, and at least one copy will be kept on-site, in the job packet, during construction activities. On completion of the training, crew members will sign a form stating that they attended the training and understand the mitigation measures.

Mitigation Measure 3.3-3: Conduct Focused Surveys for Nesting Special-Status Bird Species, Nesting Raptors, and Other Native Nesting Birds and Implement Protective Buffers

Prior to any planned construction activities occurring during the nesting season (approximately February 1 to August 31, as determined by a qualified biologist), a qualified biologist familiar with birds of California and with experience conducting nesting bird surveys will conduct focused surveys for special-status birds, other nesting raptors, and other native birds and will identify active nests. Preconstruction nesting bird surveys will be conducted within 14 days prior to when construction activities are initiated in each of the areas of suitable nesting habitat for northern harrier, salt-marsh common yellowthroat, California black rail, Alameda song sparrow, tricolored blackbird, and yellow rail that are within 500 feet of the project footprint. In addition, nesting bird surveys will be conducted for all other common raptor species (within a 500-foot buffer) and passerine species (100-foot buffer) protected by the MBTA. Pre-construction surveys for white-tailed kite will occur within 0.25-mile area of the construction area.

Impacts on nesting birds will be avoided by establishing appropriate buffers around active nest sites identified during focused surveys to prevent disturbance to the nest. Project activity will not commence within the buffer areas until a qualified biologist has determined that the young have fledged, the nest is no longer active, or reducing the buffer will not likely result in nest abandonment. An avoidance buffer of 500 feet will be implemented for white-tailed kite, in consultation with CDFW. For other species, a qualified biologist will determine the size of the buffer for nonraptor nests after a site- and nest-specific analysis. Initial work buffers typically will be 150 feet for raptors (other than special-status raptors) and 50 feet for nonraptor species (unless otherwise specified in other mitigation measures). Factors to be considered for determining buffer size will include presence of natural buffers provided by vegetation or topography, nest height above ground, baseline levels of noise and human activity, species sensitivity, and project activities. The size of the buffer may be adjusted if a qualified biologist, determines that such an adjustment would not be likely to adversely affect the nest. Any reduction to the avoidance buffer described herein for white-tailed kite (500 feet) or the typical initial work buffers for raptor and nonraptor species (150 feet and 50 feet respectively) will require consultation with CDFW. Periodic monitoring of the nest by a qualified biologist during project activities will be required if the activity has potential to adversely affect the nest, the buffer has been reduced, or if birds within active nests are showing behavioral signs of agitation (e.g., standing up from a brooding position, flying off the nest) during project activities, as determined by the qualified biologist.

- Where proposed ground-disturbing activities (e.g., grading, trenching vegetation removal, staging) are implemented within or adjacent to habitats suitable for burrowing owls, a qualified biologist shall conduct surveys for burrowing owls in areas of habitat suitable for the species within 1,640 feet (500 meters) of the proposed activities. Inaccessible areas (e.g., adjacent private property) will not be surveyed directly, but the biologist may use binoculars or a spotting scope to survey these areas. A minimum of four surveys shall be conducted prior to initiation of ground-disturbing activities to determine whether burrowing owls occupy the site. Surveys shall be conducted according to Appendix D of the *2012 Staff Report on Burrowing Owl Mitigation prepared by the California Department of Fish and Game* (now CDFW) (CDFW 2012), or any subsequent updated guidance. If feasible, at least one survey should be conducted between February 15 and April 15 (i.e., the beginning of the breeding season when nests are being established) and the remaining surveys should be conducted between April 15 and July 15 (i.e., the peak of the breeding season when most burrowing owls have active nests), at least three weeks apart, as recommended in CDFW's 2012 guidance. Because burrowing owls may recolonize a site after only a few days, one of the surveys, or an additional survey, shall be conducted within 14 days before initiating ground disturbance activities to verify that take of burrowing owl would not occur.
- If no burrowing owls are found, no further mitigation shall be required.
- If a burrow occupied by a burrowing owl is found during the surveys, the project applicant shall establish and maintain a buffer around the occupied burrow and any identified satellite burrows (i.e., non-nesting burrows that burrowing owls use to escape predators or move young into after hatching) to prevent take of the burrowing owls. Burrow buffers shall be implemented as follows:

    (a) During the non-breeding season (September 1 through January 31), the minimum buffer distance shall be 164 feet (50 meters). During the breeding season (February 1 through August 31), the minimum buffer distance shall be increased to 1,640 feet (500 meters).

    (b) The buffer may be adjusted if, in consultation with CDFW, a qualified biologist determines that an alternative buffer shall not result in take of burrowing owl adults, young, or eggs because of particular site features (e.g., topography, natural line-of-sight barriers), level of project disturbance, or other considerations. If the buffer is reduced, a qualified biologist shall monitor the behavior of the burrowing owls during all project activities within 1,640 feet of the burrow. If the owls exhibit disturbed or agitated behaviors (e.g., vocalizations, bill snaps, fluffing feathers to increase body size appearance, drooping wings and rotating them forward, crouching and weaving back and forth) in response to the project activities, the biologist shall have the authority to halt the activities and re-establish a buffer consistent with item (a) until the agitated behavior ceases and normal behavior resumes.

    (c) The buffer shall remain in place around the occupied burrow and associated satellite burrows until a qualified biologist has determined through noninvasive methods that the burrows are no longer occupied by burrowing owls. A previously occupied burrow will be considered unoccupied if surveys demonstrate that no owls have used the burrow for seven consecutive days.
- Locations of burrowing owls detected during surveys shall be reported to the California Natural Diversity Database.
- If implementation of a buffer to prevent take of burrowing owls is not feasible, the applicant shall consult with CDFW and obtain an Incidental Take Permit (ITP) prior to commencing project-related ground-disturbing activities. The impacts of taking burrowing owls shall be minimized and fully mitigated.

Mitigation Measure 3.3-4: Conduct Protocol-Level Surveys and Implement Protective Buffers for California Ridgway's Rail

Where feasible, project construction activities in suitable nesting habitat for California Ridgway's rail will not occur during the breeding season (February 1 through August 31).

If project activities during the breeding season within suitable nesting habitat for the California Ridgway's rail are unavoidable, a qualified permitted biologist will conduct a protocol-level survey between January 15 to April 15 and

within a year before construction begins. The survey will occur in suitable habitats within a 700-foot buffer around the project area. Survey methods would follow USFWS-approved *Site Specific Protocols for Monitoring Marsh Birds: Don Edwards San Francisco Bay and San Pablo Bay National Wildlife Refuges* (USFWS 2017). If California Ridgway's rails are confirmed to be present, additional coordination with CDFW and USFWS will be required.

If protocol surveys identify breeding California Ridgway's rails within 700 feet of the project area, no construction activities will occur within 700 feet of suitable habitat during the breeding season (February 1 through August 31) unless authorization is obtained from CDFW and USFWS.

If the surveys confirm that there are no breeding California Ridgway's rails within 700 feet of the project area, work activities could occur during the breeding season (February 1 through August 31). If Ridgway's rail is observed during biological monitoring within the rail nesting season, work will stop within 700 feet of the observation and Cargill will coordinate with USFWS and CDFW to determine appropriate measures.

Use of heavy equipment in suitable habitat will be minimized to the maximum extent practicable.

Mitigation Measure 3.3-5: Avoid and Minimize Impacts to Western Snowy Plover

Nesting locations are to be identified through preconstruction surveys by a qualified biologist within 14 days prior to construction during the Western snowy plover breeding season (March 1 through September 14). No construction activities can be performed within 600 feet of an active Western snowy plover nest during the breeding season without the approval of USFWS.

If construction occurs where chicks are present outside the 600-foot no-disturbance buffer and are foraging, then a qualified biologist will be present to ensure that no chicks are located in close proximity (i.e., within 200 feet) to construction activities. If chicks are present, then construction activities will be halted until they move away from the work area on their own volition.

Mitigation Measure 3.3-6: Perform Biological Monitoring

For work that will occur in or adjacent to potential habitat for special-status species, a qualified biologist will be present during initial ground disturbing activities involving use of heavy equipment that could cause noise or vibration disturbance to listed species (species state or federally listed as threatened or endangered, state species of special concern, or species fully protected by the California Fish and Game Code). Biological monitoring thereafter will occur as needed to fulfill the role of the approved biologist in project permits, potentially including permits from USACE and the RWQCB for effects to waters of the United States and state and CDFW for effects to lakes, streams, and associated riparian habitat. The qualified biologist will have stop work authority to stop project activities to minimize disturbance, injury, or mortality of listed species. If the qualified biologist exercises stop work authority, the appropriate resources agencies will be notified by phone and email within 48 hours.

Solar Salt Facility Improvements - Terrestrial Mammals

Mitigation Measure 3.3-1: Implement Standard Avoidance and Minimization Measures for Biological Resources

This mitigation measure is described on pages 17 and 18 above.

Mitigation Measure 3.3-2: Provide Worker Environmental Awareness Training

This mitigation measure is described on page 18 above.

Mitigation Measure 3.3-6: Perform Biological Monitoring

This mitigation measure is described above.

Mitigation Measure 3.3-7: Prevent Special-Status Wildlife Entrapment

To prevent inadvertent entrapment of special-status species in salt marsh and playa habitat during construction, excavated holes or trenches more than 1 foot deep with walls steeper than 30 degrees will be covered at the close of each working day by plywood or similar materials. Alternatively, an additional 4-foot-high vertical barrier,

independent of exclusionary fences, will be used to further prevent the inadvertent entrapment of special-status species. If it is not feasible to cover an excavation or provide an additional 4-foot-high vertical barrier independent of exclusionary fences, one or more escape ramps constructed of earth fill or wooden planks will be installed for every 100 feet of trenching with no greater than 3:1 slopes. Before such holes or trenches are filled and when they are covered and uncovered each working day, they will be thoroughly inspected for trapped animals. If at any time a trapped special-status animal is discovered, an USFWS- or CDFW-approved biologist will be contacted (as appropriate), and they or their designee will immediately place escape ramps or other appropriate structures to allow the animal to escape, or USFWS and/or CDFW will be contacted by telephone for guidance.

All construction pipes, culverts, or similar structures that are stored at the project site for one or more overnight periods shall be securely capped before storage or inspected by the USFWS- or CDFW-approved biologist before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a special-status species is discovered inside a pipe, the individual shall be allowed to leave on its own volition.

Mitigation Measure 3.3-8: Implement Measures to Avoid Impacts to Salt-Marsh Harvest Mouse and Salt-Marsh Wandering Shrew

Because salt-marsh harvest mouse is a fully protected species under the California Fish and Game Code, measures will be implemented to avoid injury or mortality of the species. These measures will also avoid impacts to salt-marsh wandering shrew.

A USFWS- and CDFW-approved biologist with previous salt marsh harvest mouse experience will be on-site during construction activities occurring in wetlands. The biologist will document compliance with all project permit conditions and avoidance and conservation measures. The approved biologist or their designee will have the authority to stop project activities if any requirement associated with these measures is not being fulfilled. Prior to the initiation of work each day, the USFWS- and CDFW-approved biologist will thoroughly inspect the work area and adjacent habitat areas to determine if salt-marsh harvest mouse is present.

Following confirmation by the USFWS- and CDFW-approved biologist that no salt-marsh harvest mouse is present, tidal wetland vegetation will be removed by hand using only nonmechanized hand tools (i.e., trowel, hoe, rake, and shovel) prior to the initiation of work within these areas. Vegetation will be removed to bare ground or stubble no higher than 1 inch. Vegetation will be removed under the supervision of the USFWS- or CDFW-approved biologist.

Unless otherwise instructed by USFWS and CDFW, temporary exclusion fencing will be installed immediately after the hand removal of tidal wetland vegetation (as described above) from the work area. The fence will be made of a heavy plastic sheeting material that does not allow salt-marsh harvest mice to pass through or climb, and the bottom will be buried so that salt-marsh harvest mice cannot crawl under the fence. Fence height will be at least 12 inches higher than the highest adjacent vegetation with a maximum height of 4 feet. A USFWS- and CDFW-approved biologist with previous salt-marsh harvest mouse experience will be on-site during fence installation and will check the fence alignment prior to vegetation clearing and fence installation to ensure no salt-marsh harvest mice are present.

Through project permitting (e.g., Clean Water Act 404/401) or CEQA review, if USFWS and CDFW suggest alternative measures that are equally effective (e.g., additional biological monitoring, marsh mats) as vegetation removal and temporary exclusion fencing (described in the previous two paragraphs), the suggested measures would be implemented instead, along with other suggested measures discussed herein.

The USFWS- and CDFW- approved biologist will inspect exclusion fencing during daily inspections prior to the initiation of work each day. If exclusion fencing shows signs of damage such that small mammals could enter the work area, work will not continue within 300 feet of the damaged exclusion fencing until the fences are repaired and the site is surveyed by a qualified biologist to ensure that salt-marsh harvest mouse has not entered the work area.

Construction access through wetland vegetation will be minimized to avoid the loss of individual harvest mice. If construction access through wetland vegetation is required, construction workers will follow wildlife and plant avoidance measures prescribed in *Walking in the Marsh: Methods to Increase Safety and Reduce Impacts to Wildlife/Plants* (San Francisco Bay Joint Venture 2017).

No work will occur within 50 feet of suitable tidal marsh habitat within 2 hours before and after an extreme high tide event (6.5 feet or higher measured at the Golden Gate Bridge and adjusted to the timing of local high tides) unless salt-marsh harvest mouse-proof exclusion fencing has been installed around the work area.

During berm alteration work salt-marsh harvest mouse corridors (i.e., corridors considered to be connected to larger areas of salt-marsh harvest mouse habitat) will be retained on at least one side of berms while construction activities take place.

Solar Salt Facility Improvements - Plants

Mitigation Measure 3.3-1: Implement Standard Avoidance and Minimization Measures for Biological Resources

This mitigation measure is described on pages 17 and 18 above.

Mitigation Measure 3.3-2: Provide Worker Environmental Awareness Training

This mitigation measure is described on page 18 above.

Mitigation Measure 3.3-9: Conduct Botanical Surveys and Implement Avoidance Measures and Mitigation

Prior to any ground-disturbing activities, a qualified botanist will conduct botanical surveys where there is potential for a special-status plant species to occur and during the appropriate identification period (typically, the blooming period) for plants that have a potential to occur in the project footprint. All habitats potentially suitable for special-status plants will be surveyed following CDFW's *Protocols for Surveying and Evaluating Impacts on Special-Status Native Plant Populations and Natural Communities* (CDFW 2018b or most recent version). If special-status plants are not found, the botanist would document the findings in a report to the project files, and no further mitigation would be required.

If special-status plants are found, the habitat occupied by special-status plants will be avoided completely, if feasible. This may include establishing a no-disturbance buffer around the plants and demarcation of this buffer by a qualified biologist or botanist using flagging or high-visibility construction fencing. The size of the buffer will be determined by the qualified biologist or botanist and will be large enough to avoid direct or indirect impacts on the special-status plants.

If special-status plants are found and cannot be avoided, the applicant will, in consultation with CDFW or USFWS as appropriate depending on the species status, develop and implement a site-specific mitigation program to avoid loss of occupied habitat and minimize loss of individuals. Mitigation measures shall include, at a minimum, preserving and enhancing existing populations, establishing populations through seed collection or transplantation from the site that is to be affected, and/or restoring or creating habitat in sufficient quantities to fully offset the loss of occupied habitat or individuals. Potential mitigation sites could include suitable locations within or outside of the project area, with a preference for on-site mitigation. Habitat and individual plants lost would be mitigated at a minimum 1:1 ratio, considering acreage as well as function and value and as approved by CDFW or USFWS. Success criteria for preserved and compensatory populations would include:

- The extent of occupied area and plant density (number of plants per unit area) in compensatory populations would be equal to or greater than the affected occupied habitat.
- Compensatory and preserved populations would be self-producing. Populations would be considered self-producing when:
  - plants reestablish annually for a minimum of 5 years with no human intervention such as supplemental seeding; and
  - reestablished and preserved habitats contain an occupied area and flower density comparable to existing occupied habitat areas in similar habitat types in the project vicinity.

If off-site mitigation includes dedication of conservation easements, purchase of mitigation credits, or other off-site conservation measures, the details of these measures will be included in the mitigation plan, including information on responsible parties for long-term management, conservation easement holders, long-term management requirements, success criteria such as those listed above and other details, as appropriate to target the preservation of long-term viable populations.

MSS Brine Transport Pipeline - Fish

Mitigation Measure 3.3-1: Implement Standard Avoidance and Minimization Measures for Biological Resources
This mitigation measure is described on pages 17 and 18 above.

Mitigation Measure 3.3-2: Provide Worker Environmental Awareness Training
This mitigation measure is described on page 18 above.

Mitigation Measure 3.3-10: Implement Directional Drilling Fluid Containment Measures
Prior to directional drilling activities, containment and cleanup equipment, such as portable pumps, silt fence, and fiber rolls, will be present for use at the staging areas and active construction site. At high-risk boring locations directly adjacent to or under waterbodies or wetlands, damming and flume materials will be pre-staged. During directional drilling activities, construction crews will monitor bentonite flow and returns so that fluid loss can be identified before the material surfaces. Silt fencing or equivalent will be installed between the bore site and any water or wetland. This will prevent the bentonite mixture from entering the water or wetland should a spill occur. If a spill is detected in a water or wetland, drilling will immediately cease, and spill prevention and control measures will immediately be employed. If the mixture flows to the surface of a water, a pump will be used to pump it to a safe location within a BMP. If a release occurs in a water, the water will be immediately dammed and flumed and the bentonite mixture will be contained and removed. The appropriate permitting agencies will be contacted including the San Francisco Bay RWQCB. In addition, drilling mud must not contain any chemicals that are acutely hazardous to aquatic environment, as confirmed by Material Safety Data Sheets.

MSS Brine Transport Pipeline - Birds

Mitigation Measure 3.3-1: Implement Standard Avoidance and Minimization Measures for Biological Resources
This mitigation measure is described on pages 17 and 18 above.

Mitigation Measure 3.3-2: Provide Worker Environmental Awareness Training
This mitigation measure is described on page 18 above.

Mitigation Measure 3.3-3: Conduct Focused Surveys for Nesting Special-Status Bird Species, Nesting Raptors, and Other Native Nesting Birds and Implement Protective Buffers
This mitigation measure is described on pages 18 and 19 above.

Mitigation Measure 3.3-4: Conduct Protocol-Level Surveys and Implement Protective Buffers for California Ridgway's Rail
This mitigation measure is described on pages 19 and 20 above.

Mitigation Measure 3.3-5: Avoid and Minimize Impacts to Western Snowy Plover
This mitigation measure is described on page 20 above.

Mitigation Measure 3.3-6: Perform Biological Monitoring
This mitigation measure is described on page 20 above.

Mitigation Measure 3.3-10: Implement Directional Drilling Fluid Containment Measures
This mitigation measure is described on page 23 above.

MSS Brine Transport Pipeline - Terrestrial Mammals

Mitigation Measure 3.3-1: Implement Standard Avoidance and Minimization Measures for Biological Resources
This mitigation measure is described on pages 17 and 18 above.

Mitigation Measure 3.3-2: Provide Worker Environmental Awareness Training
This mitigation measure is described on page 18 above.

Mitigation Measure 3.3-6: Perform Biological Monitoring
This mitigation measure is described on page 20 above.

Mitigation Measure 3.3-7: Prevent Special-Status Wildlife Entrapment
This mitigation measure is described on page 21 above.

Mitigation Measure 3.3-8: Avoid Impacts to Salt-Marsh Harvest Mouse and Salt-Marsh Wandering Shrew
This mitigation measure is described on pages 21 and 22 above.

Mitigation Measure 3.3-10: Implement Directional Drilling Fluid Containment Measures
This mitigation measure is described on page 23 above.

Mitigation Measure 3.3-11: Avoid Impacts to Pallid Bat
Measures for avoiding and minimizing impacts to the pallid bat will include the following:

- A qualified wildlife biologist will be retained to conduct surveys for roosting bats in potentially suitable roosting habitat (i.e., structures, trees) within the construction area. Surveys will be conducted within 14 days prior to initiation of construction activities. If no active roosts are detected during surveys, then no additional mitigation is required.
- If pallid bat roosts are found in any areas that will be directly affected by construction activities during breeding season (April 1 to August 31), a no-disturbance buffer will be established around the roosting location to avoid disturbance or destruction of the roost site until after the breeding season or after a wildlife biologist determines that the pups are fully weaned. The extent of these buffers will be determined by a wildlife biologist in consultation with CDFW and will depend on the level of noise or disturbance, line of site between the roost and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers. These factors will be analyzed and used to make an appropriate decision on buffer distances.
- Tree removal where active roosts are present will be conducted only outside of the breeding season, between September 1 and March 31, or after a wildlife biologist determines that the pups have been weaned, typically by late August.

MSS Brine Transport Pipeline - Invertebrates

Mitigation Measure 3.3-1: Implement Standard Avoidance and Minimization Measures for Biological Resources
This mitigation measure is described on pages 17 and 18 above.

Mitigation Measure 3.3-2: Provide Worker Environmental Awareness Training
This mitigation measure is described on page 18 above.

Mitigation Measure 3.3-12: Implement Avoidance Measures for Monarch Overwintering Colonies and Crotch's Bumble Bee Nest Colonies
The project will implement the following measures to avoid and minimize potential impacts on monarch butterfly overwintering colonies:

- To minimize the potential for loss of monarch overwintering colonies, project activities that include vegetation removal within suitable overwintering habitat (e.g., eucalyptus or other large trees) will be conducted from April through September to avoid the overwintering season (October through March), if feasible. If project activities are conducted outside of the overwintering season, no further mitigation will be required.

- Within 14 days before the onset of project activities that include vegetation removal between October 1 and March 31, a qualified biologist familiar with monarchs and monarch overwintering habitat will conduct focused surveys for monarch colonies within habitat suitable for the species in the project site and will identify any colonies found within the project site.
- Monarch overwintering colonies that are identified within a project site will be demarcated with flagging or high-visibility construction fencing to prevent removal of the stand of trees containing the overwintering colony and encroachment by heavy machinery, vehicles, or personnel. Removal of the tree or stand of trees that contains the overwintering colony will not occur until the monarchs have left the area, as determined by a qualified biologist.
- If modification or removal of a stand that contains an identified overwintering colony is required for a project and cannot be delayed, a site-specific management plan will be prepared and implemented for the stand with the goal of maintaining habitat function for the monarch overwintering colony, following feasible recommendations from *Protecting California's Butterfly Groves Management Guidelines for Monarch Butterfly Overwintering Habitat* (Xerces Society 2017). Examples of management strategies that could be considered to maintain habitat function include:
  - remove or trim hazard trees;
  - selectively remove or trim trees to create a heterogeneous habitat that provides access to sunlight and shade for monarchs;
  - maintain suitable wind protection in the stand; and
  - replace removed trees with native trees in strategic locations to provide additional wind protection.

The project will implement the following measures to avoid and minimize potential impacts on Crotch's bumble bee nest colonies:

- Initial ground-disturbing work (e.g., grading, trenching vegetation removal, staging) for the MSS brine transport pipeline outside of the Solar Salt Facility shall take place between August 15 and March 15, if feasible, to avoid impacts on Crotch's bumble bees potentially nesting in this area. No such restriction is necessary for improvements within the Solar Salt Facility owing to the absence of habitat suitable for this species.
- If completing initial ground-disturbing work for any portion of the MSS brine transport pipeline (outside of the Solar Salt Facility) between August 15 and March 15 is not feasible, then prior to the start of any ground-disturbing activities, a qualified biologist approved by CDFW that is familiar with bumble bees of California, and experienced using survey methods for bumble bees shall conduct a habitat assessment and focused survey for Crotch's bumble bee within vegetated portions of the project site due to be constructed within that year's colony active period. The survey shall follow the methods in *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (CDFW 2023), or any subsequent adopted or recommended CDFW guidance. The following measures shall be implemented:
  - The project proponent, with EBDA oversight, shall submit a survey report to CDFW within one month of survey completion and prior to initial ground-disturbing work, and shall notify CDFW within 24 hours if Crotch's bumble bees are detected.
  - If Crotch's bumble bees are detected during the focused survey, appropriate avoidance measures shall be implemented as determined by a qualified biologist. Avoidance measures may include protective buffers that shall be implemented around active nesting colonies until these sites are no longer active.
  - If Crotch's bumble bee is still a candidate or becomes a listed species under CESA at the time of initial ground-disturbing work for the MSS brine transport pipeline, impacts on Crotch's bumble bee cannot be avoided, and take may occur during project activities, the project proponent, with EBDA oversight, shall obtain an Incidental Take Permit (ITP) from CDFW and shall implement all avoidance measures included in the ITP including compensation for loss of nest colonies.

MSS Brine Transport Pipeline – Plants

Mitigation Measure 3.3-1: Implement Standard Avoidance and Minimization Measures for Biological Resources

This mitigation measure is described on pages 17 and 18 above.

Mitigation Measure 3.3-2: Provide Worker Environmental Awareness Training

This mitigation measure is described on page 18 above.

Mitigation Measure 3.3-9: Conduct Botanical Surveys and Implement Avoidance Measures and Mitigation

This mitigation measure is described on pages 22 and 23 above.

Mitigation Measure 3.3-10: Implement Directional Drilling Fluid Containment Measures

This mitigation measure is described on page 23 above.

Facts in Support of Findings

The EIR analysis of the project determined that with the implementation of Mitigation Measures 3.3-1 through 3.3-12, impacts on biological resources would be reduced to less than significant. Implementation of Mitigation Measures 3.3-1 through 3.3-12 would ensure that the project would not result in substantial adverse effects on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS.

Specifically, the following measures would be implemented to reduce impacts on biological resources:

- At the Solar Salt Facility and along the MSS brine transport pipeline alignment, implementing Mitigation Measures 3.3-1 through 3.3-6 and 3.3-10 would reduce impacts on special-status bird species by requiring the project proponent to implement the following actions, as applicable: conduct preconstruction nesting bird surveys, establish avoidance buffers around active nests, conduct biological monitoring during initial ground-disturbing activities, implement worker environmental awareness training and other standard biological resource avoidance measures, and implement directional drilling fluid containment measures to prevent releases into water bodies or wetlands.
- At the Solar Salt Facility and along the MSS brine transport pipeline alignment, implementing Mitigation Measures 3.3-1, 3.3-2, 3.3-6 through 3.3-8, 3.3-10, and 3.3-11 would reduce impacts on special-status mammal species by requiring the project proponent to implement the following actions, as applicable: install barriers to exclude wildlife and prevent wildlife entrapment, conduct surveys and establish buffers for roosting bats, conduct biological monitoring, implement worker environmental awareness training and other standard biological resource avoidance measures, and implement directional drilling fluid containment measures to prevent releases into water bodies or wetlands.
- At the Solar Salt Facility and along the MSS brine transport pipeline alignment, implementing Mitigation Measures 3.3-1, 3.3-2, 3.3-9, and 3.3-10 would reduce impacts on special-status plants by requiring the project proponent to implement the following actions, as applicable: conduct protocol-level surveys, implement avoidance measures, compensate for impacts, consult with regulatory agencies, implement directional drilling fluid containment measures to prevent releases into water bodies or wetlands, and implement worker environmental awareness training and other standard biological resource avoidance measures.
- Along the MSS brine transport pipeline alignment, implementing Mitigation Measures 3.3-1, 3.3-2, and 3.3-10 would reduce impacts on special-status fish by requiring the project proponent to implement the following actions, as applicable: implement directional drilling fluid containment measures to prevent releases into water bodies or wetlands, and provide worker environmental awareness training and other standard biological resource avoidance measures.
- Along the MSS brine transport pipeline alignment, implementing Mitigation Measures 3.3-1, 3.3-2, and 3.3-12 would reduce impacts on special-status invertebrates by requiring the project proponent to implement the

following actions, as applicable: implement management strategies to protect monarch butterfly overwintering colonies, and provide worker environmental awareness training and other standard biological resource avoidance measures.

Implementation of these mitigation measures will be enforced through the MMRP; compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.

Impact 3.3-2: Potential Substantial Adverse Effect on Any Riparian Habitat or Other Sensitive Natural Community Identified in Local or Regional Plans, Policies, or Regulations, or by CDFW or USFWS

and

Impact 3.3-3: Potential Substantial Adverse Effect on State or Federally Protected Wetlands (including, but Not Limited to, Marshes, Vernal Pools, Coastal Wetlands, etc.) through Direct Removal, Filling, Hydrological Interruption, or Other Means

Implementing the project may result in temporary loss or disturbance of waters and wetlands from construction of the Solar Salt Facility Improvements and MSS brine transport pipeline. The Solar Salt Facility Improvements are anticipated to result in a small loss of unvegetated pond habitat, and construction of other permanent above-ground improvements could result in additional permanent loss of potentially jurisdictional features. Limited trimming or removal of riparian vegetation may also occur from MSS brine transport pipeline construction. Further, areas affected by the project may qualify as sensitive natural communities, most likely including tidal marsh habitats identified or likely to qualify as northern coastal salt marsh. Directional drilling to construct the MSS brine transport pipeline could result in accidental frac-out which could adversely affect water quality and degrade wetlands. Due to the sensitivity of these habitat types, and their protected statuses, this impact would be **potentially significant**.

Findings

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the EIR. The following mitigation measures reduce the potentially significant project impacts on biological resources to less than significant.

Solar Salt Facility Improvements

Mitigation Measure 3.3-1: Implement Standard Avoidance and Minimization Measures for Biological Resources

This mitigation measure is described on pages 17 and 18 above.

Mitigation Measure 3.3-2: Provide Worker Environmental Awareness Training

This mitigation measure is described on page 18 above.

Mitigation Measure 3.3-6: Perform Biological Monitoring

This mitigation measure is described on page 20 above.

Mitigation Measure 3.3-13: Mitigate for Unavoidable Impacts to Wetlands and Other Waters of the United States/State

Before initial ground disturbance or vegetation removal activities begin within areas that may contain wetlands and other waters, the following measures, which are intended to avoid and minimize impacts on state or federally protected wetlands, shall be implemented.

A qualified biologist will delineate the boundaries of state or federally protected wetlands within the project site according to methods established in the USACE wetlands delineation manual (Environmental Laboratory 1987) and the Western Mountains, Valleys, and Coast regional supplement (USACE 2010). The qualified biologist will also

delineate the boundaries of wetlands that may not meet the definition of waters of the United States, but would qualify as waters of the state, according to the state wetland definition and procedures (SWRCB 2021).

If state or federally protected wetlands are determined to be present within a work area and can be avoided, the qualified biologist will establish a buffer around wetlands and mark the buffer boundary with high-visibility flagging, fencing, stakes, or clear, existing landscape demarcations (e.g., edge of a roadway). The buffer will be a minimum width of 25 feet but may be larger if deemed necessary. The appropriate size and shape of the buffer zone will be determined in coordination with the qualified biologist and will depend on the type of wetland present, the timing of project activities (e.g., wet or dry time of year), whether any special-status species may occupy the wetland and the species' vulnerability to the project activities, environmental conditions and terrain, and the project activity being implemented.

Project activities (e.g., ground disturbance, vegetation removal, staging) will be prohibited within the established buffer. A qualified biologist will periodically inspect the materials demarcating the buffer to confirm that they are intact and visible, and wetland impacts are being avoided.

If it is determined that fill of waters of the United States would result from project implementation, authorization for such fill will be secured from USACE through the Section 404 permitting process. Any waters of the United States that would be affected by the project will be replaced or restored on a no-net-loss basis in accordance with USACE mitigation guidelines. In association with the Section 404 permit (if applicable) and prior to the issuance of any grading permit, Section 401 Water Quality Certification from the San Francisco RWQCB will be obtained.

If it is determined that disturbance or fill of state protected wetlands, or any other waters of the state cannot be avoided, the implementing party will notify CDFW, the San Francisco RWQCB, and BCDC before commencing any activity within the bed or, bank, or riparian corridor of any waterway and will notify the RWQCB before commencing any activity within a state wetland. If project activities trigger the need for a Streambed Alteration Agreement, the proponent will obtain an agreement from CDFW before the activity commences. Project construction activities will be implemented in accordance with the agreement, including implementing reasonable measures in the agreement necessary to protect the fish and wildlife resources, when working within the bed or bank of waterways that function as a fish or wildlife resource or in riparian habitats associated with those waterways. The applicant will apply for a permit from the San Francisco RWQCB for any activity that may result in discharges of dredged or fill material to waters of the state. The application will be completed in accordance with state procedures (SWRCB 2021).

If it is determined that fill in any water, land, or structure within BCDC jurisdiction will result from project implementation, authorization for such fill will be secured from BCDC through its permitting process before the activity commences.

State or federally protected waters and wetlands disturbed during project activities will be restored to pre-disturbance conditions or better. Restoration will include restoring pre-disturbance contours, hydrology, and vegetation. Temporary impacts to wetlands will require preparation of a restoration plan which details how wetlands will be restored and will require implementation of a monitoring plan to ensure the restoration is successful. Permanent impacts to wetlands and other waters of the United States will be replaced in accordance with USACE regulations to achieve "no net loss" of area or function of waters of the United States, including wetlands.

Permanent impacts to waters of the state will be compensated in accordance with the state procedures, such that the project would not result in a net loss of overall abundance, diversity, and condition of aquatic resources within the affected watershed based on a watershed assessment using an assessment method approved by the San Francisco RWQCB or State Water Resources Control Board.

To the degree feasible and acceptable to the agencies with jurisdiction, restoration, rehabilitation, and/or replacement of jurisdictional waters for permanent impacts will be mitigated in-kind and completed on-site at a location agreeable to USACE, the RWQCB, and BCDC in accordance with USACE, San Francisco RWQCB, and BCDC mitigation guidelines. Any permanent impacts that cannot be mitigated through on-site restoration, rehabilitation, and/or replacement will be compensated through purchase of mitigation credits at a USACE/San Francisco RWQCB/BCDC-approved mitigation bank.

Mitigation Measure 3.3-14: Compensate for Unavoidable Loss of Sensitive Natural Communities

The following measures shall be implemented before implementation of project activities:

- A qualified botanist will perform a protocol-level survey of the project site for sensitive natural communities and sensitive habitats following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (CDFW 2018b). Sensitive natural communities will be identified using the best available and current data, including keying them out using the most current edition of *A Manual of California Vegetation* (including updated natural communities data at http://vegetation.cnps.org/), or referring to relevant reports (e.g., reports found on the VegCAMP website).
- Before implementation of project activities, development setbacks will be established around all sensitive habitats identified during surveys, and these setbacks will be flagged or fenced with brightly visible construction flagging and/or fencing under the direction of the qualified biologist and no project activities (e.g., vegetation removal (including herbicide application), ground disturbance, staging) will occur within these areas. Setback distances will be dependent on various factors (e.g., presence of special-status wildlife or plant species) and determined by a qualified biologist in consultation with the appropriate agency (e.g., CDFW), but will generally be a minimum of 50 feet. Foot traffic by personnel will also be limited in these areas to prevent the introduction of invasive or weedy species or inadvertent trampling of vegetation. Periodic inspections during construction will be conducted by the monitoring biologist to maintain the integrity of exclusion fencing/flagging throughout the period of construction involving ground disturbance.

If sensitive natural communities are determined to be present within a work area and these habitats cannot be avoided, the following measures shall be implemented:

- Compensate for unavoidable loss of any sensitive natural community habitat function such that no net loss of habitat function occurs by:
  - restoring sensitive natural community habitat function within the project site (e.g., using locally collected seed or cuttings);
  - restoring degraded sensitive natural communities outside of the project site at a sufficient ratio to offset the loss of habitat function (at least 1:1); or
  - preserving existing sensitive natural communities of that provide similar habitat function to the sensitive natural community affected through a conservation easement at a sufficient ratio to offset the loss of habitat function (at least 1:1).
- Prepare and implement a Compensatory Mitigation Plan that includes the following:
  - For preserving existing habitat outside of the project site in perpetuity, the Compensatory Mitigation Plan will include a summary of the proposed compensation lands (e.g., the number and type of credits, location of mitigation bank or easement), parties responsible for the long-term management of the land, and the legal and funding mechanism for long-term conservation (e.g., holder of conservation easement or fee title).
  - For restoring or enhancing habitat within the project site or outside of the project site, the Compensatory Mitigation Plan will include a description of the proposed habitat improvements, success criteria that demonstrate the performance standard of maintained habitat function has been met, legal and funding mechanisms, and parties responsible for long-term management and monitoring of the restored or enhanced habitat.
  - Success criteria required to maintain habitat function for preserved and compensatory populations will include, but not be limited to:
    - The extent of occupied area and density of plants associated with the sensitive natural community (number of plants per unit area) in compensatory habitats will be equal to or greater than the affected occupied habitat.

- Compensatory and preserved sensitive natural communities will be self-producing. Populations will be considered self-producing when:
  - Plants associated with sensitive natural communities reestablish annually for a minimum of 5 years with no human intervention such as supplemental seeding; and
  - Reestablished and preserved habitats contain an occupied area and density comparable to existing occupied habitat areas in similar habitat types in the project vicinity.

MSS Brine Transport Pipeline

Mitigation Measure 3.3-1: Implement Standard Avoidance and Minimization Measures for Biological Resources
This mitigation measure is described on pages 17 and 18 above.

Mitigation Measure 3.3-2: Provide Worker Environmental Awareness Training
This mitigation measure is described on page 18 above.

Mitigation Measure 3.3-6: Perform Biological Monitoring
This mitigation measure is described on page 20 above.

Mitigation Measure 3.3-13: Mitigate for Unavoidable Impacts to Wetlands and Other Waters of the United States/State
This mitigation measure is described on pages 28 and 29 above.

Mitigation Measure 3.3-14: Compensate for Unavoidable Loss of Sensitive Natural Communities
This mitigation measure is described on pages 29 and 30 above.

Mitigation Measure 3.3-15: Mitigate for Unavoidable Riparian Habitat Removal
Prior to implementing any project activity that may result in changes to the natural flow or bed, channel, or bank of any river, stream, or lake supporting fish or wildlife resources, a Lake and Streambed Alteration Notification will be submitted to CDFW, pursuant to Section 1602 of the California Fish and Game Code. If project activities trigger the need for a Streambed Alteration Agreement, the project proponent will obtain such agreement from CDFW and will conduct construction activities in accordance with the agreement, including implementing reasonable measures in the agreement necessary to protect fish and wildlife resources, including riparian habitat.

The project proponent will mitigate any removal of any riparian habitat through on-site, in-kind restoration, rehabilitation, and/or replacement of riparian trees and other riparian vegetation. If the loss of riparian habitat cannot be fully mitigated on-site, additional compensation will be provided through purchase of credits from a CDFW-approved mitigation bank.

Facts in Support of Findings
The EIR analysis of the project determined that with the implementation of Mitigation Measures 3.3-1, 3.3-2, 3.3-6, and 3.3-13 through 3.3-15, impacts on biological resources would be reduced to less than significant. Implementation of Mitigation Measures 3.3-1, 3.3-2, 3.3-6, and 3.3-13 through 3.3-15 would ensure that the project would not result in substantial adverse effects on riparian habitats, sensitive natural communities, or state or federally protected wetlands. Specifically, the project proponent would be required to implement the following actions at the Solar Salt Facility and along the MSS brine transport pipeline alignment, as applicable: implement worker environmental awareness training and other standard biological resource avoidance measures, perform biological monitoring to restrict construction activities to approved areas, mitigate for unavoidable impacts on wetlands and other waters of the United States and state on a "no-net-loss" basis, and compensate for unavoidable loss of sensitive natural communities. In addition, the project proponent would be required to mitigate for unavoidable riparian habitat removal along the MSS brine transport pipeline alignment. Implementation of these mitigation measures will be enforced through the MMRP; compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.

Impact 3.3-4: Potential Substantial Interference with the Movement of Any Native Resident or Migratory Fish or Wildlife Species or with Established Native Resident or Migratory Wildlife Corridors, or Impediment to the Use of Native Wildlife Nursery Sites

Implementing the project may disturb nesting or rearing wildlife species including special-status birds and terrestrial mammals. Disturbance may occur from direct habitat encroachment or indirect disturbance (e.g., construction noise or habitat degradation). Impacts to fish rearing would be avoided through use of directional drilling techniques. Project construction and improvements are anticipated to result in negligible effects to localized movement and migration. Direct or indirect construction disturbance of special-status bird or mammal nursery sites would be a **potentially significant** impact.

Findings

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the EIR. The following mitigation measures reduce the potentially significant project impact on biological resources to less than significant.

MSS Brine Transport Pipeline

Mitigation Measure 3.3-1: Implement Standard Avoidance and Minimization Measures for Biological Resources

This mitigation measure is described on pages 17 and 18 above.

Mitigation Measure 3.3-2: Provide Worker Environmental Awareness Training

This mitigation measure is described on page 18 above.

Mitigation Measure 3.3-16: Retain Wildlife Nursery Habitat and Implement Buffers to Avoid Wildlife Nursey Sites

If wildlife nursery sites are discovered within or adjacent to the project site during surveys required under Mitigation Measures 3.3-3, 3.3-4, 3.3-5, 3.3-6, 3.3-8, 3.3-9, 3.3-11, and 3.3-12, the following measures will be implemented before commencement of project activities:

- A qualified biologist will identify the important habitat features of the wildlife nursery and, prior to commencement of project activities (e.g., ground disturbance, vegetation removal, staging), will mark these features for avoidance and retention during project implementation to maintain the function of the nursery habitat.
- A no-disturbance buffer will be established around the nursery site if project activities are required while the nursery site is active/occupied. The appropriate size and shape of the buffer will be determined by a qualified biologist, based on potential effects of project-related habitat disturbance, noise, visual disturbance, and other factors. No project activity will commence within the buffer area until a qualified biologist confirms that the nursery site is no longer active/occupied. Monitoring of the effectiveness of the no-disturbance buffer around the nursery site by a qualified biologist during and after project activities will be required. If project activities cause agitated behavior of the individual(s), the buffer distance will be increased, or project activities modified until the agitated behavior stops. The qualified biologist will have the authority to stop any project activities that could result in potential adverse effects to wildlife nursery sites.

Facts in Support of Findings

The EIR analysis of the project determined that with the implementation of Mitigation Measures 3.3-1, 3.3-2, and 3.3-16, impacts on biological resources would be reduced to less than significant. Implementation of Mitigation Measures 3.3-1, 3.3-2, and 3.3-16 would ensure that the project would not result in substantial impacts on heron rookeries, bat roosting, or other wildlife nursery sites. Specifically, the project proponent would be required to implement the following actions along the MSS brine transport pipeline alignment, as applicable: implement worker environmental awareness training and other standard biological resource avoidance measures, and establish no-disturbance buffers around wildlife nursery sites. Implementation of these mitigation measures will be enforced through the MMRP;

compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.

Impact 3.3-5: Potential Conflict with Any Local Policies or Ordinances Protecting Biological Resources, Such as a Tree Preservation Policy or Ordinance

Implementing the project may result in adverse impacts to plants, wildlife, and sensitive habitats that would conflict with local biological resource policies and ordinances. This includes conflict with policies within municipal planning documents (e.g., general plans), site specific plans (e.g., Hayward Regional Shoreline Adaptation Master Plan), as well as BCDC plans and policies. The project may also require trimming or removal of municipal trees protected by local ordinances. These effects would be a **potentially significant** impact from conflicts with local biological resource policies and ordinances.

Findings

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the EIR. The following mitigation measures reduce the potentially significant project impact on biological resources to less than significant.

Solar Salt Facility Improvements

Mitigation Measure 3.3-1: Implement Standard Avoidance and Minimization Measures for Biological Resources

This mitigation measure is described on pages 17 and 18 above.

Mitigation Measure 3.3-2: Provide Worker Environmental Awareness Training

This mitigation measure is described on page 18 above.

Mitigation Measure 3.3-3: Conduct Focused Surveys for Nesting Special-Status Bird Species, Nesting Raptors, and Other Native Nesting Birds and Implement Protective Buffers

This mitigation measure is described on pages 18 and 19 above.

Mitigation Measure 3.3-4: Conduct Protocol-Level Surveys and Implement Protective Buffers for California Ridgway's Rail

This mitigation measure is described on pages 19 and 20 above.

Mitigation Measure 3.3-5: Avoid and Minimize Impacts to Western Snowy Plover

This mitigation measure is described on page 20 above.

Mitigation Measure 3.3-6: Perform Biological Monitoring

This mitigation measure is described on page 20 above.

Mitigation Measure 3.3-7: Prevent Special-Status Wildlife Entrapment

This mitigation measure is described on page 21 above.

Mitigation Measure 3.3-8: Avoid Impacts to Salt-Marsh Harvest Mouse and Salt-Marsh Wandering Shrew

This mitigation measure is described on pages 21 and 22 above.

Mitigation Measure 3.3-9: Conduct Botanical Surveys and Implement Avoidance Measures and Mitigation

This mitigation measure is described on pages 22 and 23 above.

Mitigation Measure 3.3-10: Implement Directional Drilling Fluid Containment Measures

This mitigation measure is described on page 23 above.

Mitigation Measure 3.3-11: Avoid Impacts to Pallid Bat
This mitigation measure is described on page 24 above.

Mitigation Measure 3.3-12: Implement Avoidance Measures for Monarch Overwintering Colonies and Crotch's Bumble Bee Nest Colonies
This mitigation measure is described on pages 25 and 26 above.

Mitigation Measure 3.3-13: Mitigate for Unavoidable Impacts to Wetlands and Other Waters of the United States/State
This mitigation measure is described on pages 28 and 29 above.

Mitigation Measure 3.3-14: Compensate for Unavoidable Loss of Sensitive Natural Communities
This mitigation measure is described on pages 29 and 30 above.

Mitigation Measure 3.3-15: Mitigate for Unavoidable Riparian Habitat Removal
This mitigation measure is described on page 30 above.

Mitigation Measure 3.3-16: Retain Wildlife Nursery Habitat and Implement Buffers to Avoid Wildlife Nursey Sites
This mitigation measure is described on pages 31 and 32 above.

MSS Brine Transport Pipeline

Mitigation Measure 3.3-1: Implement Standard Avoidance and Minimization Measures for Biological Resources
This mitigation measure is described on pages 17 and 18 above.

Mitigation Measure 3.3-2: Provide Worker Environmental Awareness Training
This mitigation measure is described on page 18 above.

Mitigation Measure 3.3-3: Conduct Focused Surveys for Nesting Special-Status Bird Species, Nesting Raptors, and Other Native Nesting Birds and Implement Protective Buffers
This mitigation measure is described on pages 18 and 19 above.

Mitigation Measure 3.3-4: Conduct Protocol-Level Surveys and Implement Protective Buffers for California Ridgway's Rail
This mitigation measure is described on pages 19 and 20 above.

Mitigation Measure 3.3-5: Avoid and Minimize Impacts to Western Snowy Plover
This mitigation measure is described on page 20 above.

Mitigation Measure 3.3-6: Perform Biological Monitoring
This mitigation measure is described on page 20 above.

Mitigation Measure 3.3-7: Prevent Special-Status Wildlife Entrapment
This mitigation measure is described on page 21 above.

Mitigation Measure 3.3-8: Avoid Impacts to Salt-Marsh Harvest Mouse and Salt-Marsh Wandering Shrew
This mitigation measure is described on pages 21 and 22 above.

Mitigation Measure 3.3-9: Conduct Botanical Surveys and Implement Avoidance Measures and Mitigation
This mitigation measure is described on pages 22 and 23 above.

Mitigation Measure 3.3-10: Implement Directional Drilling Fluid Containment Measures
This mitigation measure is described on page 23 above.

Mitigation Measure 3.3-11: Avoid Impacts to Pallid Bat
This mitigation measure is described on page 24 above.

Mitigation Measure 3.3-12: Implement Avoidance Measures for Monarch Overwintering Colonies and Crotch's Bumble Bee Nest Colonies
This mitigation measure is described on pages 25 and 26 above.

Mitigation Measure 3.3-13: Mitigate for Unavoidable Impacts to Wetlands and Other Waters of the United States/State
This mitigation measure is described on page 28 and 29 above.

Mitigation Measure 3.3-14: Compensate for Unavoidable Loss of Sensitive Natural Communities
This mitigation measure is described on pages 29 and 30 above.

Mitigation Measure 3.3-15: Mitigate for Unavoidable Riparian Habitat Removal
This mitigation measure is described on page 30 above.

Mitigation Measure 3.3-16: Retain Wildlife Nursery Habitat and Implement Buffers to Avoid Wildlife Nursey Sites
This mitigation measure is described on pages 31 and 32 above.

Mitigation Measure 3.3-17: Comply with City and County Tree Ordinances
If tree removal is required for the project, the project will apply for any permits required by the Cities of Fremont, Union City, Newark, and Hayward, and Alameda County in accordance with applicable tree removal ordinances and comply with all regulations detailed in those permits and ordinances. This may include like-size and like-kind replacement of removed or damaged trees, as specified in the applicable ordinances.

Facts in Support of Findings
The EIR analysis of the project determined that with the implementation of Mitigation Measures 3.3-1 through 3.3-17, impacts on biological resources would be reduced to less than significant. Implementation of Mitigation Measures 3.3-1 through 3.3-16 would ensure that the project would not conflict with local biological resource policies and ordinances, for the reasons described under Impacts 3.3-1 through 3.3-4, above. In addition, Mitigation Measure 3.3-17 would ensure that the project proponent will comply with city and county tree removal ordinances and regulations. Implementation of these mitigation measures will be enforced through the MMRP; compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.

Impact 3.3-6: Potential Conflict with the Provisions of an Adopted Habitat Conservation Plan, Natural Community Conservation Plan, or Other Approved Local, Regional, or State Habitat Conservation Plan

For portions of the project that occur within the Refuge, potential adverse effects to plants, wildlife, and sensitive habitats may conflict with conservation policies in the *Don Edwards San Francisco Bay National Wildlife Refuge: Final Comprehensive Conservation Plan and Environmental Assessment*. Potential adverse effects include direct and indirect impacts to special-status birds, terrestrial mammals, and plants from project construction, and indirect impacts to fish or other species (e.g., from encroachment in sensitive habitats). Temporary encroachment within waters or wetlands, or disturbance of riparian vegetation, may also occur during construction. Accidental frac-outs from directional drilling to construct the MSS brine transport pipeline could also result in discharge of drilling mud that could be deleterious to special-status species and habitats. These effects would be a **potentially significant** impact from conflict with provisions in the *Don Edwards San Francisco Bay National Wildlife Refuge: Final Comprehensive Conservation Plan and Environmental Assessment*.

Findings

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the EIR. The following mitigation measures reduce the potentially significant project impact on biological resources to less than significant.

Solar Salt Facility Improvements

Mitigation Measure 3.3-1: Implement Standard Avoidance and Minimization Measures for Biological Resources

This mitigation measure is described on pages 17 and 18 above.

Mitigation Measure 3.3-2: Provide Worker Environmental Awareness Training

This mitigation measure is described on page 18 above.

Mitigation Measure 3.3-3: Conduct Focused Surveys for Nesting Special-Status Bird Species, Nesting Raptors, and Other Native Nesting Birds and Implement Protective Buffers

This mitigation measure is described on pages 18 and 19 above.

Mitigation Measure 3.3-4: Conduct Protocol-Level Surveys and Implement Protective Buffers for California Ridgway's Rail

This mitigation measure is described on page 19 and 20 above.

Mitigation Measure 3.3-5: Avoid and Minimize Impacts to Western Snowy Plover

This mitigation measure is described on page 20 above.

Mitigation Measure 3.3-6: Perform Biological Monitoring

This mitigation measure is described on page 20 above.

Mitigation Measure 3.3-7: Prevent Special-Status Wildlife Entrapment

This mitigation measure is described on page 21 above.

Mitigation Measure 3.3-8: Avoid Impacts to Salt-Marsh Harvest Mouse and Salt-Marsh Wandering Shrew

This mitigation measure is described on pages 21 and 22 above.

Mitigation Measure 3.3-9: Conduct Botanical Surveys and Implement Avoidance Measures and Mitigation

This mitigation measure is described on pages 22 and 23 above.

Mitigation Measure 3.3-10: Implement Directional Drilling Fluid Containment Measures

This mitigation measure is described on page 23 above.

Mitigation Measure 3.3-11: Avoid Impacts to Pallid Bat

This mitigation measure is described on page 24 above.

Mitigation Measure 3.3-12: Implement Avoidance Measures for Monarch Overwintering Colonies and Crotch's Bumble Bee Nest Colonies

This mitigation measure is described on pages 25 and 26 above.

Mitigation Measure 3.3-13: Mitigate for Unavoidable Impacts to Wetlands and Other Waters of the United States/State

This mitigation measure is described on pages 28 and 29 above.

Mitigation Measure 3.3-14: Compensate for Unavoidable Loss of Sensitive Natural Communities

This mitigation measure is described on pages 29 and 30 above.

Mitigation Measure 3.3-15: Mitigate for Unavoidable Riparian Habitat Removal
This mitigation measure is described on page 30 above.

Mitigation Measure 3.3-16: Retain Wildlife Nursery Habitat and Implement Buffers to Avoid Wildlife Nursey Sites
This mitigation measure is described on pages 31 and 32 above.

MSS Brine Transport Pipeline

Mitigation Measure 3.3-1: Implement Standard Avoidance and Minimization Measures for Biological Resources
This mitigation measure is described on pages 17 and 18 above.

Mitigation Measure 3.3-2: Provide Worker Environmental Awareness Training
This mitigation measure is described on page 18 above.

Mitigation Measure 3.3-3: Conduct Focused Surveys for Nesting Special-Status Bird Species, Nesting Raptors, and Other Native Nesting Birds and Implement Protective Buffers
This mitigation measure is described on pages 18 and 19 above.

Mitigation Measure 3.3-4: Conduct Protocol-Level Surveys and Implement Protective Buffers for California Ridgway's Rail
This mitigation measure is described on pages 19 and 20 above.

Mitigation Measure 3.3-5: Avoid and Minimize Impacts to Western Snowy Plover
This mitigation measure is described on page 20 above.

Mitigation Measure 3.3-6: Perform Biological Monitoring
This mitigation measure is described on page 20 above.

Mitigation Measure 3.3-7: Prevent Special-Status Wildlife Entrapment
This mitigation measure is described on page 21 above.

Mitigation Measure 3.3-8: Avoid Impacts to Salt-Marsh Harvest Mouse and Salt-Marsh Wandering Shrew
This mitigation measure is described on pages 21 and 22 above.

Mitigation Measure 3.3-9: Conduct Botanical Surveys and Implement Avoidance Measures and Mitigation
This mitigation measure is described on pages 22 and 23 above.

Mitigation Measure 3.3-10: Implement Directional Drilling Fluid Containment Measures
This mitigation measure is described on page 23 above.

Mitigation Measure 3.3-11: Avoid Impacts to Pallid Bat
This mitigation measure is described on page 24 above.

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This mitigation measure is described on pages 29 and 30 above.

Mitigation Measure 3.3-15: Mitigate for Unavoidable Riparian Habitat Removal

This mitigation measure is described on page 30 above.

Mitigation Measure 3.3-16: Retain Wildlife Nursery Habitat and Implement Buffers to Avoid Wildlife Nursey Sites

This mitigation measure is described on pages 31 and 32 above.

Mitigation Measure 3.3-17: Comply with City and County Tree Ordinances

This mitigation measure is described on page 34 above.

Facts in Support of Findings

The EIR analysis of the project determined that with the implementation of Mitigation Measures 3.3-1 through 3.3-17, impacts on biological resources would be reduced to less than significant. Implementation of Mitigation Measures 3.3-1 through 3.3-17 would ensure that the project would not conflict with provisions in the *Don Edwards San Francisco Bay National Wildlife Refuge: Final Comprehensive Conservation Plan and Environmental Assessment*, for the reasons described under Impacts 3.3-1 through 3.3-5, above. Implementation of these mitigation measures will be enforced through the MMRP; compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.

5.2.3 Cultural and Tribal Cultural Resources, Draft EIR Section 3.4

Impact 3.4-2: Potential to Cause a Substantial Adverse Change in the Significance of Unique Archaeological Resources

The NWIC records searches identified two previously recorded archaeological sites present in the project area. Additionally, project-related ground-disturbing activities could result in damage to these or other yet undiscovered archaeological resources as defined in State CEQA Guidelines Section 15064.5. This would be a **potentially significant** impact.

Findings

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the EIR. The following mitigation measures reduce the potentially significant project impact on cultural resources to less than significant.

Mitigation Measure 3.4-2a: Develop and Implement a Worker Environmental Awareness Program

Before the start of any ground disturbing construction activities, a qualified professional archaeologist (one who meets the Secretary of the Interior's Professional Qualification Standards for archaeology) shall develop a construction worker awareness brochure for all construction personnel. The brochure will be developed in coordination with representatives from the following Native American tribes culturally affiliated with the project area: Confederated Villages of Lisjan and Northern Valley Yokut/Ohlone/Patwin. The topics to be addressed in the Worker Environmental Awareness Program will include, at a minimum:

- types of archaeological and tribal cultural resources expected in the project area;
- what to do if a worker encounters a possible resource;
- what to do if a worker encounters bones or possible bones; and
- penalties for removing or intentionally disturbing archaeological and tribal cultural resources, such as those identified in the Archeological Resources Protection Act.

Mitigation Measure 3.4-2b: Halt Ground-Disturbing Activity upon Discovery of Subsurface Archaeological Features

If any precontact or historic-era subsurface archaeological features or deposits (e.g., ceramic shard, trash scatters), including locally darkened soil ("midden"), which may conceal cultural deposits, are discovered during construction, all ground-disturbing activity within 100 feet of the resources shall be halted, and a qualified professional archaeologist (one who meets the Secretary of the Interior's Professional Qualification Standards for archaeology) shall be retained to assess the significance of the find. If the qualified archaeologist determines the archaeological material to be Native American in nature, Cargill shall be required by EBDA to contact the following Native American tribes culturally affiliated with the project area: Confederated Villages of Lisjan and Northern Valley Yokut/Ohlone/Patwin. A tribal representative from these tribes may make recommendations for further evaluation and treatment as necessary and provide input on the preferred treatment of the find. If the find is determined to be significant by the archaeologist or the tribal representative (i.e., because it is determined to constitute a unique archaeological resource or a tribal cultural resource, as appropriate), the archaeologist and tribal representative, as appropriate, shall develop, and Cargill shall be required by EBDA to implement, appropriate procedures to protect the integrity of the resource and ensure that no additional resources are affected. Procedures may include but would not necessarily be limited to preservation in place (which shall be the preferred manner of mitigating impacts on archaeological and tribal sites), archival research, subsurface testing, or contiguous block unit excavation and data recovery (when it is the only feasible mitigation, and pursuant to a data recovery plan). No work at the discovery location shall resume until all necessary investigation and evaluation of the resource has been satisfied. The final disposition of any archaeological, historical, or paleontological resources recovered on state land under the jurisdiction of the California State Lands Commission (CSLC) shall also be approved by the CSLC.

Facts in Support of Findings

The EIR analysis of the project determined that with the implementation of Mitigation Measures 3.4-2a and 3.4-2b, impacts on cultural resources would be reduced to less than significant. Implementation of Mitigation Measures 3.4-2a and 3.4-2b would ensure that the project would not cause a substantial adverse change in the significance of unique archaeological resources by requiring the project proponent to develop and implement a worker environmental awareness program and halt ground-disturbing activity upon discovery of archaeological features until investigation and evaluation of the resource has been satisfied. Implementation of these mitigation measures will be enforced through the MMRP; compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.

Impact 3.4-3: Potential to Cause a Substantial Adverse Change in the Significance of a Tribal Cultural Resource

Tribal consultation under AB 52 did not result in the identification of tribal cultural resources on the project site. However, excavation activities associated with project construction may disturb or destroy previously undiscovered significant subsurface tribal cultural resources. This would be a **potentially significant** impact.

Findings

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the EIR. The following mitigation measure reduces the potentially significant project impact on tribal cultural resources to less than significant.

Mitigation Measure 3.4-2a: Develop and Implement a Worker Environmental Awareness Program

This mitigation measure is described on page 38 above.

Mitigation Measure 3.4-2b: Halt Ground-Disturbing Activity upon Discovery of Subsurface Archaeological Features

This mitigation measure is described on page 38 above.

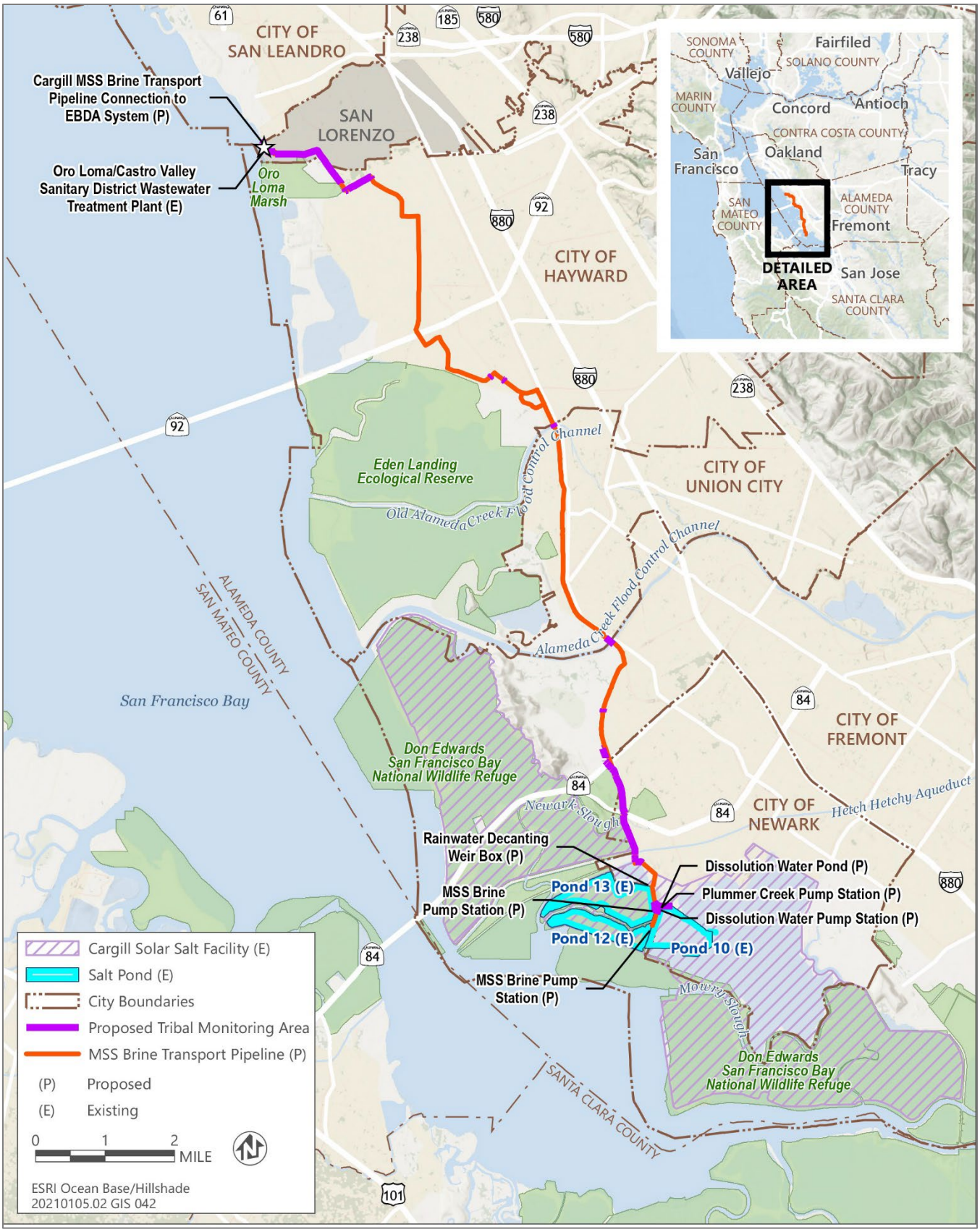
Mitigation Measure 3.4-3: Protect Unidentified Tribal Cultural Resources

EBDA will require Cargill to invite a tribal monitor/consultant who is approved by one or both of the following Native American tribes culturally affiliated with the project area: Confederated Villages of Lisjan and Northern Valley

Yokut/Ohlone/Patwin, to monitor ground-disturbing activities that are associated with construction of the MSS brine transport pipeline and involve grading, tree removal, boring, excavation, drilling, or trenching in areas with native soils that will occur within 100 feet of a waterway or a known tribal cultural site. Areas of these anticipated ground-disturbing activities are shown in purple in Figure 3.4-1; areas with trenching/disturbance at man-made berms are not anticipated to be of interest. Before construction begins, Cargill shall coordinate with the representatives of the culturally affiliated tribes to determine which tribe will be contacted to provide the tribal monitor/consultant for each area of the project identified in Figure 3.4-1. Cargill shall contact the appropriate tribal representative by email and phone a minimum of 3 days before beginning ground-disturbing activities in the areas identified on Figure 3.4-1, and the tribal representative or their tribal monitor/consultant shall confirm attendance at least 24 hours before ground-disturbing activities are scheduled to begin. If confirmation is not provided, ground-disturbing activities may proceed without the presence of a tribal monitor/consultant. The tribal monitor/consultant shall complete daily monitoring logs that describe each day's activities, including construction activities, locations and type of soil disturbed, and any cultural materials identified. The monitoring logs shall be emailed to the tribal representatives for both the Confederated Villages of Lisjan and Northern Valley Yokut/Ohlone/Patwin tribes, as well as Cargill, and EBDA, on a weekly basis. The on-site monitoring shall end when the ground-disturbing construction activities in native soils are completed or when the tribal monitor/consultant has indicated that the site has a low potential for affecting tribal cultural resources.

Facts in Support of Findings

The EIR analysis of the project determined that with the implementation of Mitigation Measures 3.4-2a, 3.4-2b, and 3.4-3, the impact on tribal cultural resources would be reduced to less than significant. Implementation of Mitigation Measures 3.4-2a, 3.4-2b, and 3.4-3 would ensure that the project would not cause a substantial adverse change in the significance of a tribal cultural resource by requiring the project proponent to develop and implement a worker environmental awareness program, halt ground-disturbing activity upon discovery of archaeological features that are Native American in nature until investigation and evaluation of the resource has been satisfied in coordination with the Native American tribes culturally affiliated with the project area (Confederated Villages of Lisjan and Northern Valley Yokut/Ohlone/Patwin), and invite a tribal monitor/consultant who is approved by one or both of those tribes to monitor ground-disturbing activities within 100 feet of waterways and known tribal cultural sites and complete daily monitoring logs to document any cultural materials identified. Implementation of these mitigation measures will be enforced through the MMRP; compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.



Source: Data received from AECOM and Jacobs in 2021 and 2022; adapted by Ascent in 2022

Figure 3.4-1 Proposed Tribal Monitoring Area

5.2.4 Hazards and Hazardous Materials, Draft EIR Section 3.7

Impact 3.7-4: Potential to Result in or Create a Significant Hazard to the Public or the Environment Due to Being Located on a Site Which Is Included on a List of Hazardous Materials Sites Compiled Pursuant to Government Code Section 65962.5

Earthmoving activities associated with construction of the project would occur in proximity to known sites of contamination and areas with the potential to contain hazardous materials due to past uses, which could result in hazards to the public or the environment if contamination from these sites is encountered during construction. The potential for encountering hazardous materials or wastes would be dependent on site-specific conditions. This impact would be **potentially significant**.

Findings

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the EIR. The following mitigation measures reduce the potentially significant project impact on hazards and hazardous materials to less than significant.

Mitigation Measure 3.7-4a: Prepare a Phase I Environmental Site Assessment for the Project

Before the start of earthmoving activities, Cargill will hire a licensed environmental professional to prepare a Phase I ESA in accordance with the ASTM International E-1527-05 standard. All recommendations included in the Phase I ESA shall be implemented. If the Phase I ESA indicates the presence or likely presence of contamination, a Phase II ESA shall be required (see Mitigation Measure 3.7-4b).

Mitigation Measure 3.7-4b: Prepare a Phase II Environmental Site Assessment in the Ground Disturbance Areas in Locations Where Contamination May Be Present

If the Phase I ESA indicates the presence or likely presence of contamination in areas proposed for ground disturbance, Cargill will hire a licensed environmental professional to prepare a Phase II ESA for these areas before the start of earthmoving activities. The Phase II study will assess the potential for human health and environmental hazards related to potential contact with existing environmental contamination of the surface and subsurface soil and groundwater in the areas where ground disturbance and excavation associated with the project would occur and soil adjacent to SR 84 and SR 92, where horizontal directional drilling is planned.

The Phase II assessment will comply with the ASTM International E1903-19 standard and include soil and groundwater sampling and laboratory analysis sufficient to identify the types of chemicals and their respective concentrations. The work plan for any soil and groundwater sampling that would occur in areas under the jurisdiction of ACWD as part of the Phase II assessment will be submitted to ACWD for review and approval in accordance with ACWD Ordinance No. 2010-01. If the laboratory analysis determines that contaminants are present at concentrations below RWQCB threshold levels, the Phase II assessment will present such results, and no further analysis or mitigation will be necessary.

If the laboratory analysis determines that contaminants are found at levels that exceed RWQCB threshold levels, the Phase II assessment will examine and discuss all potential exposure pathways for the locations where project-related excavation could encounter hazardous materials, including:

- dermal—physical contact with contaminated soil and groundwater during construction;
- inhalation—dust generated by construction activities;
- groundwater—potential for groundwater generated by construction dewatering to cause migration of a contaminant plume; and
- surface water—potential for overland flow of contaminated groundwater generated during construction dewatering to contaminate surface waters.

The Phase II assessment will evaluate potential hazards to both construction workers and the environment and will make recommendations governing project excavation, staging, soil reuse or disposal, and construction dewatering requirements.

The results from the Phase II assessment will be provided to project contractors so that recommendations from the Phase II assessment regarding excavation, staging, soil reuse or disposal, and construction dewatering can be incorporated into contractor specifications in accordance with Mitigation Measure 3.7-4d and to inform preparation of a site-specific health and safety plan (HASP), in accordance with Mitigation Measure 3.7-4e. If it is determined through the Phase II assessment that in some areas along the pipeline alignment, groundwater dewatering likely would cause plumes of contaminated water in the vicinity to migrate in the direction of the dewatering activity, contractor specifications will state that shoring rather than dewatering will be used in these areas.

Mitigation Measure 3.7-4c: Coordinate with Regulatory Agencies and Implement Appropriate Remedies

If the results of the Phase II assessment indicate that any contaminants are present at a level that exceeds the associated RWQCB or DTSC threshold level, Cargill will notify the appropriate city, the appropriate CUPA, ACWD, and the RWQCB or DTSC, as appropriate. Coordination will occur with the ACWD, and RWQCB or DTSC, as appropriate, regarding the necessity for and types of protective measures required during project-related excavation activities and to ensure that project activities do not interfere with ongoing remedial actions by other entities. Such protective measures could include marking and avoiding existing groundwater monitoring wells, employing shoring and avoiding dewatering activities, installing temporary soil trench plugs, containing contaminated groundwater in Baker Tanks and treating the water before discharge, monitoring groundwater, and documenting backfill quality. As required by the regulatory agencies, reports documenting the implementation of appropriate protective measures, including any required groundwater monitoring, will be prepared and submitted during the course of construction activities.

Mitigation Measure 3.7-4d: Incorporate Standards for Proper Excavation and Staging Activities, for Handling, Transport, and Disposal of Excavated Soils, and for Construction-Related Dewatering into the Project's Construction Specifications

Specifications and procedures to be followed by the contractor for proper excavation and staging activities, for the handling, transport, and disposal of excavated soils, and for construction-related dewatering in affected area(s), which will be based on the results of the Phase II assessment completed under Mitigation Measure 3.7-4b, will be incorporated into the construction specifications. These specifications and procedures will be consistent with federal and state requirements, including RCRA, CERCLA, the federal hazardous materials transportation law, the Clean Water Act, the Occupational Safety and Health Act, and Title 22, Division 4.5 of the CCR. The following provisions will be included in the project's construction specifications:

- Construction workers in the affected area(s) who will be involved with ground disturbance will be trained in Hazardous Waste Operations and Emergency Response if the types of contaminants and their concentrations warrant this training based on the results of the Phase II ESA completed under Mitigation Measure 3.7-4b.
- Soil and materials removal from the affected area(s) will be performed by a licensed engineering contractor with a Class A license and hazardous substance removal certification. A California-licensed engineer will provide field oversight on behalf of Cargill and will document the origin and destination of all removed materials. If necessary, removed materials will be stockpiled temporarily and covered with plastic sheeting, pending relocation, segregation, or off-site hauling. To protect groundwater and surface water quality, contaminated soils will not be stored on-site during the winter rainy season (i.e., November through April).
- If excess materials from the affected area(s) are hauled off-site, waste profiling of the material will be completed and documented. Materials classified as nonhazardous waste will be transported under a bill of lading. Materials classified as non-RCRA hazardous waste will be transported under a hazardous waste manifest. All materials will be disposed of at an appropriately licensed landfill or facility.
- Trucking operations will comply with Caltrans requirements and any other applicable regulations, and all trucks will be licensed and permitted to carry the appropriate waste classification. The tracking of dirt by trucks leaving

the project site will be minimized by cleaning the wheels on exit and by cleaning the loading zone and exit area as needed.

- If contaminated materials require dewatering before being hauled off-site, or if excavation would encounter shallow groundwater in the affected area(s), a dewatering plan will be prepared, specifying methods of collecting, transporting, treating, and discharging all water produced by dewatering, and demonstrating compliance with RWQCB requirements and permits. The project proponent will also coordinate with ACWD on the development of the dewatering plan and submit it to ACWD for review and approval before commencing dewatering activities in areas under the jurisdiction of ACWD.

Mitigation Measure 3.7-4e: Prepare and Implement a Site-Specific Health and Safety Plan

To protect the health of construction workers and the environment, a site-specific HASP will be prepared as follows:

- The HASP will be prepared in accordance with state and federal OSHA regulations (29 CFR 1910.120) and approved by a certified industrial hygienist. Copies of the HASP will be made available to construction workers for review during their orientation training and/or during regular health and safety meetings. The HASP will identify potential hazards (including groundwater or stained or odiferous soils at any location where earthmoving activities would occur), chemicals of concern (if any have been determined), personal protective equipment and devices, decontamination procedures, the need for personal or area monitoring, and emergency response procedures.
- The HASP will state that if stained or odiferous soil or groundwater is discovered during project-related construction activities, Cargill will retain a licensed environmental professional to conduct a Phase II ESA that includes appropriate soil and/or groundwater analysis. Recommendations contained in the Phase II ESA to address any contamination that is found will be implemented before continuing with ground-disturbing activities in these areas.
- The HASP will also require notification of the appropriate federal, state, and local agencies if evidence is found of previously undiscovered soil or groundwater contamination (e.g., stained soil or odorous groundwater) or if previously undiscovered underground storage tanks are encountered during construction activities. Any contaminated areas will be remediated in accordance with recommendations made by the RWQCB, DTSC, the local CUPA, and/or other appropriate federal, state, or local regulatory agencies.

Mitigation Measure 3.7-4f: Locate and Avoid Underground Utilities in Areas Where Excavation Is Proposed, and Prepare a Response Plan to Be Implemented If Accidental Damage Occurs

Cargill will implement the following measures before construction begins, to avoid and minimize potential damage to utilities that could result in hazardous materials incidents:

- Before the start of construction activities, verify through field surveys and the services of Underground Service Alert the locations of any utilities that may be buried at the project site in the areas where development is proposed (e.g., high-pressure natural gas, fuel, stormwater, sewer, water, electrical, or communication). Any buried utility lines will be clearly marked in the field.
- Inform all construction personnel of the location of the utility lines during safety briefings throughout the period when construction is occurring. The locations of the utility lines will be clearly identified on construction drawings and posted in the construction superintendent's trailer.
- Prepare a response plan that identifies chain-of-command rules for notification of authorities and appropriate actions and responsibilities regarding the safety of the public and workers. A component of the response plan will include worker education training in response to such situations. The plan will include telephone numbers for emergency response providers, as well as the location of the nearest hospital. This information also will be posted in the construction superintendent's trailer on the job site during construction.

Mitigation Measure 3.7-4g: Safely Remove, Handle, and Dispose of Pavement Containing Yellow Paint

The construction contractor will follow Caltrans Standard Specifications (Caltrans 2018) for removal of pavement containing yellow pavement markings. Yellow marking residue will be handled, removed, and disposed of in accordance with state and federal regulations related to lead waste.

Facts in Support of Findings

The EIR analysis of the project determined that with the implementation of Mitigation Measures 3.7-4a through 3.7-4g, impacts on hazards and hazardous materials would be reduced to less than significant. Implementation of Mitigation Measures 3.7-4a through 3.7-4g would ensure that the project would not create significant hazards to the public or the environment if contamination from hazardous materials sites are encountered during construction by requiring the project proponent to implement the following actions, as applicable: prepare and implement the recommendations of environmental site assessments, coordinate with applicable regulatory agencies and implement appropriate remediation, incorporate standards regarding hazards and hazardous materials into construction specifications, prepare and implement a site-specific HASP, locate and avoid underground utilities before excavation and prepare a response plan to be implemented in the event of accidental rupture, and follow regulations governing removal and disposal of lead waste. Implementation of these mitigation measures will be enforced through the MMRP; compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.

5.2.5 Hydrology and Water Quality, Draft EIR Section 3.8

Impact 3.8-1: Potential to Violate Any Water Quality Standards or Waste Discharge Requirements or Otherwise Substantially Degrade Surface Water or Groundwater Quality during Construction

Construction of the project would cause soil disturbance during trenching for installation of the MSS brine transport pipeline and during construction of Solar Salt Facility ponds and associated infrastructure improvements. This disturbance has the potential to impact surface water and groundwater quality through increased potential of erosion and sedimentation especially when construction is adjacent to waterways and wetlands or within wetlands. If needed, dewatering would occur during construction using sump pumps. The water would be disposed of in an approved sewer system or settling tank to protect water quality. Additionally, the use of equipment during construction could cause spills or leaks of fuel, oil, and other fluids that could degrade water quality especially when construction is adjacent to or within wetlands. The project would adhere to California Construction General Permit Order 2009-0009-DWQ, as well as city and county codes, which would reduce the water quality impact associated with construction. The pipeline would also include several directional drills under wetlands, waters of the United States, and other infrastructure. Directional drilling has the potential to release drilling fluid (bentonite clay-water mix) to the surface, which could spill into adjacent wetlands and waters. Impacts to water quality from direct work in wetlands and from drilling fluids would be **potentially significant**.

Findings

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the EIR. The following mitigation measures reduce the potentially significant project impact on water quality to less than significant.

Mitigation Measure 3.3-10: Implement Directional Drilling Fluid Containment Measures

This mitigation measure is described on page 23 above.

Mitigation Measure 3.3-13: Mitigate for Unavoidable Impacts to Wetlands and Other Waters of the United States/State

This mitigation measure is described on pages 28 and 29 above.

Facts in Support of Findings

The EIR analysis of the project determined that with the implementation of Mitigation Measures 3.3-10 and 3.3-13, the impact on water quality would be reduced to less than significant. Implementation of Mitigation Measures 3.3-10 and 3.3-13 would ensure that the project would not violate water quality standards or waste discharge requirements or otherwise substantially degrade surface water or groundwater quality during construction by requiring the project proponent to implement the following actions, as applicable: implement directional drilling fluid containment measures to prevent releases into water bodies or wetlands, and mitigate for unavoidable impacts on wetlands and other waters of the United States and state on a "no-net-loss" basis. Implementation of these mitigation measures will be enforced through the MMRP; compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.

Impact 3.8-3: Potential to Substantially Decrease Groundwater Supplies or Interfere Substantially with Groundwater Recharge Such That the Project May Impede Sustainable Groundwater Management of the Basin

The project area generally has very high groundwater levels and is located within large groundwater basins. The project would use small amounts of water during construction for dust control. Trenching and directional drilling to install the pipeline could require dewatering where groundwater levels are high enough to infiltrate trenches or access pits. Dewatering would be performed by sump pump and groundwater would be discharged into an approved sewer line or settling tank and then discharged to the sewer or storm drain system. Because the quantity of groundwater that would need to be extracted during trenching or directional drilling to keep trenches and access pits free of water during construction of the pipeline is unknown, the potential need for substantial dewatering exists, and because dewatering water would be discharged to the sewer or storm drain system, groundwater supply or recharge could be adversely affected. Therefore, this impact would be **potentially significant**.

Findings

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the EIR. The following mitigation measure reduces the potentially significant project impact on groundwater to less than significant.

Mitigation Measure 3.8-2: Minimize Groundwater Loss Due to Dewatering during Construction of the MSS Brine Transport Pipeline

To minimize the loss of groundwater due to dewatering during construction of the pipeline, compliance with one of the following measures is required:

- Where groundwater levels are high and trench or access pit installation would require significant dewatering, EBDA and Cargill shall require the contractor to pump groundwater to settling tanks and discharge clean water back to a nearby well, if permitted, or use the water for dust control in the vicinity of where the dewatering occurred.
- If discharge of groundwater to injection wells is necessary during construction activities, EBDA shall require Cargill or its contractor to obtain the necessary permits and approvals from ACWD and the San Francisco RWQCB, as appropriate before commencing such activities. If groundwater injection into the Niles Cone Subbasin is foreseeable, EBDA shall require Cargill or its contractor to notify and coordinate with ACWD and comply with the applicable requirements of ACWD Ordinance No. 2010-01, including water quality testing requirements. In addition, EBDA shall require Cargill or its contractor to fulfill applicable reporting requirements under the EPA Underground Injection Control Program.
- If discharge to a nearby well or using dewatering water for dust control in the vicinity is not feasible, then EBDA shall require Cargill to pay the appropriate replenishment assessment fee to the applicable GSA to compensate for loss of groundwater from the basin.

Facts in Support of Findings

The EIR analysis of the project determined that with the implementation of Mitigation Measure 3.8-2, the impact on groundwater would be reduced to less than significant. Implementation of Mitigation Measure 3.8-2 would ensure that the project would not substantially decrease groundwater supplies or interfere with groundwater recharge by requiring the project proponent to discharge dewatered groundwater into an injection well, if permitted; use dewatered groundwater water for dust control; or pay appropriate replenishment assessment fees. Implementation of this mitigation measure will be enforced through the MMRP; compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.

Impact 3.8-5: Potential to Risk Release of Pollutants Due to Project Inundation from Flood Hazard, Dam Failure, Tsunami, Seiche, or Sea Level Rise

The project is located in a flood hazard area, tsunami inundation zone, dam failure inundation zone, and an area potentially subject to sea level rise. The MSS brine transport pipeline would be constructed below ground and therefore would not risk long term release of pollutants due to flooding. The salt ponds are surrounded by berms that would protect against the release of MSS brine in the event of a flood. Cargill's ongoing maintenance of berms and infrastructure minimizes the risk of berm failure and release of pollutants. If a flood were to occur during construction of the project, sediment and other pollutants could be released especially from staging areas located within flood zones. Therefore, this impact would be **potentially significant**.

Findings

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the EIR. The following mitigation measure reduces the potentially significant project impact on hydrology and water quality to less than significant.

Mitigation Measure 3.8-5: Locate Staging Areas Outside of the Flood Zone or Install a Protective Barrier around Potential Sources of Pollutants Stored within the Staging Area

Prioritize staging of materials outside of the FEMA 100-year flood zone, tsunami inundation zone, or dam failure inundation zones. If construction related stockpiles of soil, oil, fuel, lubricants, or other chemicals must be stored at any staging area that is located in a flood zone, then prior to construction, the construction contractor shall install a temporary protective barrier around the materials sufficient to provide protection from flood inundation and maintain the barrier throughout the construction period.

Facts in Support of Findings

The EIR analysis of the project determined that with the implementation of Mitigation Measure 3.8-5, the impact on hydrology and water quality would be reduced to less than significant. Implementation of Mitigation Measure 3.8-5 would ensure that the project would not risk release of pollutants as a result of inundation by requiring the project proponent to locate staging areas outside of the flood zone or install protective barriers around potential sources of pollutants stored in staging areas. Implementation of this mitigation measure will be enforced through the MMRP; compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.

Impact 3.8-6: Potential to Conflict with or Obstruct Implementation of a Water Quality Control Plan or Sustainable Groundwater Management Plan

The project would comply with the San Francisco Bay Basin Plan. However, because the quantity of groundwater that would need to be extracted during trenching or directional drilling over the approximately 16-mile pipeline corridor to keep trenches and access pits free of water during construction of the pipeline is unknown, the potential exists for groundwater supply or recharge in the Niles Cone Groundwater Subbasin or East Bay Plain Subbasin Groundwater to be adversely affected. Therefore, the project could potentially impede the implementation of the Alternative to a Groundwater Sustainability Plan for the Management of the Niles Cone Groundwater Subbasin administered by ACWD, or the East Bay Plain Subbasin Groundwater Sustainability Plan implemented by EBMUD, and this impact would be **potentially significant**.

Findings

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the EIR. The following mitigation measure reduces the potentially significant project impact on hydrology and water quality to less than significant.

Mitigation Measure 3.8-2: Minimize Groundwater Loss Due to Dewatering during Construction of the MSS Brine Transport Pipeline

This mitigation measure is described on page 45 above.

Facts in Support of Findings

The EIR analysis of the project determined that with the implementation of Mitigation Measure 3.8-2, the impact on hydrology and water quality would be reduced to less than significant. Implementation of Mitigation Measure 3.8-2 would ensure that the project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan, for the reasons described under Impact 3.8-3, above. Implementation of this mitigation measure will be enforced through the MMRP; compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.

5.2.6 Recreation, Draft EIR Section 3.10

Impact 3.10-1: Potential to Increase the Use of Existing Parks or Other Recreational Facilities during Project Construction Such That Physical Deterioration Would Occur or Be Accelerated

Construction activities would result in temporary direct (e.g., loss of access, parking, or use) and indirect (e.g., changes to visual character and quality, and increases in noise, dust, and traffic) effects on recreationists at parks and recreational facilities that intersect with or are in proximity to construction activities. Construction activities would be of a limited duration in any one location (pipeline construction would proceed at a rate of approximately 150 feet per day and most staging areas would be in use for 8 to 12 weeks). Regardless, temporary closures, reduced parking, and other disruptions could displace recreationists to other parks or recreational facilities in the region during the construction period. Therefore, physical deterioration of other parks and recreational facilities could occur or be accelerated and construction-related impacts would be **potentially significant**.

Findings

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the EIR. The following mitigation measure reduces the potentially significant project impact on recreation to less than significant.

Mitigation Measure 3.10-1: Prepare and Implement Detour Plans for Parks, Trails, and Recreational Facilities

EBDA and Cargill shall prepare and implement a detour plan for all recreational facilities that would experience access interruptions during project construction, including Don Edwards National Wildlife Refuge/Newark Slough Trail, Alameda Creek Regional Trail, and segments of the San Francisco Bay Trail that are not within roadway rights-of-way. Detour plans shall be developed in consultation with applicable resource agencies, including USFWS, CDFW, BCDC, ACWD, EBRPD, the Metropolitan Transportation Commission (MTC), and the Cities of Hayward and Union City. The plan shall be prepared at least 14 days before the start of construction activities involving disruption to a recreational facility. The detour plan shall include posted signs at major entry points for recreational facilities clearly indicating closed areas, the location of alternative facilities or access points, detour routes, and a contact number to call for questions or concerns. The proposed detours will be required to meet accessibility requirements under the Americans with Disabilities Act. The construction contractor shall be required to maintain and implement the detour plan throughout construction activities affecting access to a recreational facility. The 14-day notice period shall also provide time for these agencies to post notices on their respective websites regarding closures and alternate routes.

EBDA and Cargill shall provide public information through the media regarding detours and alternative access routes for recreational facilities affected by project construction. EBDA and Cargill shall coordinate with applicable resource agencies to make available to the public information regarding detours at least 14 days before the start of construction activities where detours or closures are required. EBDA and Cargill shall continue to provide public information regarding detours/closures throughout the project construction period.

Although closures are not anticipated at Coyote Hills Regional Park, EBDA and Cargill shall coordinate with EBRPD to ensure that the public is notified of construction activities in proximity to recreational use areas.

Although closures are not anticipated at Hayward Regional Shoreline/Oro Loma Marsh, EBDA and Cargill shall coordinate with CDFW, EBRPD, and City of Hayward to ensure that the public is notified of construction activities in proximity to recreational use areas. Additionally, EBDA and Cargill shall coordinate with the members of the Hayward Area Shoreline Planning Agency (City of Hayward, Hayward Area Recreation and Park District, and EBRPD) to ensure that construction activities do not interfere with implementation of the Hayward Regional Shoreline Adaptation Master Plan (HASPA 2021), which includes goals to protect recreational assets and enhance recreational opportunities in response to the threat of sea level rise.

Facts in Support of Findings

The EIR analysis of the project determined that with the implementation of Mitigation Measure 3.10-1, the impact on recreation would be reduced to less than significant. Implementation of Mitigation Measure 3.10-1 would ensure that EBDA and Cargill prepare and implement a detour plan for parks, trails, and recreational facilities in coordination with applicable resource agencies to avoid displacing recreationists to other parks or recreational facilities in the region during the construction period to the extent that physical deterioration of other parks and recreational facilities could occur or be accelerated. Implementation of this mitigation measure will be enforced through the MMRP; compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.

Impact 3.10-3: Potential to Substantially Increase Hazards Due to Incompatible Uses with Recreational Activities during Project Construction

Construction of the MSS brine transport pipeline would introduce construction activities in areas that are currently used for recreation. The proximity of construction activities to areas used for recreation would increase safety hazards for recreationists due to incompatible uses. Potential hazards to recreationists would include construction vehicle collisions; slips, trips, and falls at open excavations; falling objects; and exposure to hazardous materials, elevated noise levels, and increased dust. As a condition of encroachment permit approval, EBDA and Cargill would be required to implement a traffic control plan to minimize construction-related traffic safety hazards on affected roadways. The traffic control plan would reduce safety hazards on segments of the San Francisco Bay Trail within roadway rights-of-way. However, traffic control plans would not reduce safety hazards at Don Edwards National Wildlife Refuge/Newark Slough Trail, Alameda Creek Regional Trail, and segments of the San Francisco Bay Trail that are not within roadway rights-of-way. Therefore, this impact would be **potentially significant**.

Findings

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the EIR. The following mitigation measure reduces the potentially significant project impact on recreation to less than significant.

Mitigation Measure 3.10-1: Prepare and Implement Detour Plans for Parks, Trails, and Recreational Facilities

This mitigation measure is described on page 48 above.

Facts in Support of Findings

The EIR analysis of the project determined that with the implementation of Mitigation Measure 3.10-1, the impact on recreation would be reduced to less than significant. Implementation of Mitigation Measure 3.10-1 would ensure that EBDA and Cargill prepare and implement detour plans for parks, trails, and recreational facilities in coordination with applicable resource agencies to reduce hazards related to incompatible uses with recreational activities during project construction. Implementation of this mitigation measure will be enforced through the MMRP; compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.

5.3 SIGNIFICANT AND UNAVOIDABLE IMPACTS

The EBDA Commission agrees with the characterization in the EIR with respect to all impacts identified as significant and unavoidable. For this project, the following impacts were identified as significant and unavoidable. That is, these impacts would remain significant despite the incorporation of all feasible mitigation measures to substantially lessen or avoid the impacts. In accordance with State CEQA Guidelines Section 15091(a), a specific finding is made for each significant and unavoidable impact and its associated mitigation measures in the discussions below.

5.3.1 Noise and Vibration, Draft EIR Section 3.9

Impact 3.9-1: Potential to Expose Existing Receptors to Short-Term Construction Noise

Based on the construction activities and associated construction equipment likely to be required, construction noise levels were modeled and could reach up to 93.6 dB L_{eq} and 97.6 dB $L_{max.}$ at 50 feet, and 24-hour CNEL levels could be as high as 84.9 dBA L_{dn} under worst case conditions (several pieces of equipment operating simultaneously). These noise levels would exceed noise standards in jurisdictions with requirements that construction-related noise levels not exceed 86 dBA L_{eq} at adjacent land uses or not exceed 83 dBA L_{eq} at 25 feet from individual pieces of equipment. Thus, construction activities could result in a substantial temporary and periodic increase in noise during daytime hours at existing and future sensitive land uses. This impact would be **significant**.

Findings

Changes or alterations have been required in, or incorporated into, the project that would provide substantial reductions in levels of construction noise exposure at noise-sensitive land uses. Although the following mitigation measure reduces the project impact on noise, the impact would not be reduced to a less-than-significant level.

Mitigation Measure 3.9-1: Implement Construction Noise Reduction Measures

The following construction mitigation measure shall be implemented by the construction contractor for the entire construction phase of the project and within each jurisdiction that construction passes through:

- The construction contractor shall use noise-reducing operation measures, techniques, best practices, and equipment to achieve maximum practicable noise reduction (generally considered to be 10 dBA for construction noise) with the goal of achieving noise levels that do not exceed the applicable thresholds for each jurisdiction. This requirement shall be enforced through its inclusion on the construction bid specifications. The bid specifications shall require that the construction contractor provide an equipment inventory list for all equipment in the fleet with greater than 50-horsepower engines that identifies (at a minimum) make, model, and horsepower of equipment; operating noise levels at 50 feet; available noise control devices that are installed on each piece of equipment; and associated noise reduction from the installed technology. Control devices shall include high-efficiency mufflers, acoustic dampening, and protected internal noise absorption layers for vibrating components, enclosures, and electric motors. In addition, the contractor shall specify how proposed alternative construction procedures will be employed to reduce noise at sensitive receptors compared to other more traditional methods. Examples include, but are not limited to welding instead of riveting, mixing concrete off-site instead of on-site, and using thermal lances instead of drive motors and bits. In all cases, the requirement is that the best commercially available noise-reducing technology and noise-reducing alternative construction method shall be used, provided there are no safety concerns, engineering limits, or environmental constraints preventing it from being used. If a unique circumstance does exist that prevents an alternative, quieter construction method from being used, the contractor shall provide evidence to support its proposal. The noise reduction elements of construction bid submittals shall be approved by the jurisdiction in which construction will occur, in coordination with a qualified acoustical professional. The ability for a construction contractor to reduce noise from construction shall be among the criteria considered in evaluating the contractor's qualifications.

In addition to the bid-specific measures described above, the following specific measures shall be implemented to achieve the preceding measure:

- During the entire active construction period, equipment and trucks used for project construction shall use the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds).
- The contractor shall be required to use impact tools (e.g., jack hammers and hoe rams) that are hydraulically or electrically powered wherever possible. Where the 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.
- Stationary equipment, such as generators, air compressors, and stockpiled equipment, shall be located as far away from nearby noise-sensitive uses as allowed by physical (e.g., topography, structures) constraints.
- At least 10 days before the start of construction activities, a sign shall be posted at the entrance(s) to the job site, clearly visible to the public, that identifies permitted construction days and hours, as well as the telephone numbers of city and contractor representatives who are assigned to respond in the event of a noise or vibration complaint. If the authorized contractor's representative receives a complaint, the complaint shall be investigated, appropriate corrective action shall be taken, and the action shall be reported to the city.
- Signs shall be posted at the job site entrance(s), all staging areas, starting and end points of construction headings, as well as intermittently (at least every 5 miles) between construction start and end points, and in the on-site construction zones, and along queueing lanes (if any) to reinforce the prohibition of unnecessary engine idling. All other equipment shall be turned off if not in use for more than 5 minutes.

- During the entire active construction period, noise-producing signals, including horns, whistles, alarms, and bells, shall be used for safety warning purposes only. The construction manager shall use smart backup alarms, which automatically adjust the alarm level based on the background noise level, or switch off backup alarms and replace them with human spotters in compliance with all safety requirements and laws.
- Noisy operations (e.g., riveting, cutting, hammering) shall be combined to occur in the same period (e.g., day or construction phase), such that the overall duration of these activities is reduced. The total noise level produced will not be substantially greater than the level produced if the operations were performed separately, and the total duration of sensitive receptor exposure to substantial noise levels will be reduced.

Facts in Support of Findings

Implementation of Mitigation Measure 3.9-1 would minimize noise levels at adjacent land uses by ensuring that the associated equipment is properly maintained and operated only when necessary; by maximizing the distance between construction staging areas and nearby uses, to the extent feasible; and by designating a noise disturbance coordinator who will be responsible for responding to any local complaints. However, the EIR analysis of the project concluded that implementing Mitigation Measure 3.9-1 would not reduce project-related construction noise levels to below the applicable thresholds or reduce the substantial temporary increase in noise that would occur, which would be as high as 31 A-weighted decibels. No additional feasible mitigation or alternatives are available to further reduce this impact after a review of the available technical literature and best practices regarding noise control and mitigation in comparable project settings. Therefore, the impact on noise would be significant and unavoidable. Implementation of Mitigation Measure 3.9-1 will be enforced through the MMRP; compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.

5.3.2 Cumulative Impacts, Draft EIR Chapter 4

Cumulative Impact Related to Construction Noise, Draft EIR Section 4.4.8

Given that the project would result in a significant construction-related noise impact, it is foreseeable that the project's contribution of construction noise could combine with other construction activity within the project vicinity to create a cumulatively considerable impact. Thus, it can be assumed that the proposed project, along with certain future projects, **would result in a considerable contribution to a significant cumulative impact** related to construction noise.

Findings

As described in Section 5.3.1, above, changes or alterations have been required in, or incorporated into, the project that would provide substantial reductions in levels of construction noise exposure at noise-sensitive land uses. The following mitigation measure would reduce the project impact related to noise (Impact 3.9-1), which would also reduce the project's contribution to a significant cumulative impact on noise. Because the project-level impact (Impact 3.9-1) would not be reduced to a less-than-significant level, it is foreseeable that the project's contribution to a significant cumulative noise impact also would not be reduced to a less-than-significant level.

Mitigation Measure 3.9-1: Implement Construction Noise Reduction Measures

This mitigation measure is described on pages 50 and 51 above.

Facts in Support of Findings

As described in Section 5.3.1, above, implementation of Mitigation Measure 3.9-1 would minimize noise levels at adjacent land uses by ensuring that the associated equipment is properly maintained and operated only when necessary; by maximizing the distance between construction staging areas and nearby uses, to the extent feasible; and by designating a noise disturbance coordinator who will be responsible for responding to any local complaints. However, the EIR analysis of the project concluded that implementing Mitigation Measure 3.9-1 would not reduce project-related construction noise levels to below the applicable thresholds or reduce the substantial temporary

increase in noise that would occur, which would be as high as 31 A-weighted decibels. Given that implementing the project would result in a significant construction-related noise impact, it is foreseeable that the project's contribution of construction noise could combine with noise from other construction activity in the project vicinity to create a cumulatively considerable impact. Therefore, the project's contribution to a significant cumulative noise impact would be significant and unavoidable. Implementation of Mitigation Measure 3.9-1 will be enforced through the MMRP; compliance with the MMRP will be included as a requirement of the Project Approval Agreement and Operating Agreement between EBDA and Cargill.

5.4 FINDINGS REGARDING PROJECT ALTERNATIVES

CEQA Section 21002 states that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." The same statute states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects."

When a lead agency has determined that a project as proposed would cause one or more significant environmental effects that cannot be substantially lessened or avoided even after the adoption of all feasible mitigation measures, the agency, before it approves the project as mitigated, must first determine whether, with respect to such impacts, there remain any project alternatives that are both environmentally superior and feasible within the meaning of CEQA. Although an EIR must evaluate this range of potentially feasible alternatives, an alternative may ultimately be deemed by the lead agency to be "infeasible" if it fails to fully promote the lead agency's underlying goals and objectives with respect to the project (*City of Del Mar v. City of San Diego* [1982] 133 Cal.App.3d 401, 417). "'[F]easibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors" (ibid.; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* [1993] 23 Cal.App.4th 704, 715). Thus, even if a project alternative would avoid or substantially lessen any of the significant environmental effects of the project, the decision makers may reject the alternative if they determine that specific considerations make the alternative infeasible or if the alternative does not meet the objectives of the project.

All the environmental impacts associated with the project would be substantially lessened or avoided with adoption of the mitigation measures set forth in these findings, with the exception of Impact 3.9-1 (Potential to Expose Existing Receptors to Short-Term Construction Noise) and the cumulative impact related to construction noise. EBDA's goal in evaluating the project alternatives was to select an alternative that feasibly attains the project objectives while further reducing the project's significant and unavoidable impacts.

The State CEQA Guidelines require that an EIR "describe a range of reasonable alternatives to the project, or to the location of the project, which could feasibly obtain the basic objectives of the project" (Section 15126.6[a]). The lead agency has the discretion to determine how many alternatives constitute a reasonable range, and an EIR need not present alternatives that are incompatible with fundamental project objectives. In addition, Section 15126.6(a) states that an EIR need not consider alternatives that are infeasible. Among the factors that may be considered when addressing the feasibility of alternatives are "site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries…, and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site" (Section 15126.6[f][1]). Section 15126.6(f) states that the range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The EIR analysis considered a reasonable range of alternatives.

5.4.1 Alternatives Considered but Rejected in the EIR

This discussion describes the alternatives that were considered but not evaluated further in the EIR (see the discussion in Chapter 5, "Alternatives," in the Draft EIR).

Cargill considered two alternatives in which excess MSS would be transported from the Solar Salt Facility to off-site land-based locations rather than discharged into the Bay. Based on their environmental impacts and other factors, EBDA determined that these alternatives, described below, need not be evaluated further in the EIR:

- Truck to Landfill Alternative: Under this alternative, haul trucks would be used to transport excess MSS from the Solar Salt Facility to multiple nearby landfills. This alternative would require approximately 120 truck trips per day over 10 years to transport the approximately 6 million tons of MSS currently stored at the Solar Salt Facility (assuming trucks with a capacity for 18 tons would haul MSS brine 10 hours per day and 5 days per week). These vehicle trips would contribute to traffic congestion on local roadways, high levels of air pollution and greenhouse gas emissions, and result in excessive energy use over the 10-year period. Because of the adverse effects associated with the substantial number of vehicle trips, this alternative was not evaluated further in the EIR.
- Underground Injection Control Well Alternative: This alternative would consist of using haul trucks or trains to transport excess MSS brine to an off-site location where it could be injected into a groundwater well. Cargill identified five permitted injection sites within 100 miles of the Solar Salt Facility. The permitted disposal rate for these sites is approximately 1,000 gallons per minute; however, a disposal rate of 1,200 gallons per minute would be required for 24 hours per day over 10 years to accommodate the approximately 6 million tons of MSS currently stored at the Solar Salt Facility. This alternative would require approximately 360 truck trips per day over 10 years to transport the MSS brine. Similar to the Truck to Landfill Alternative described above, this alternative would contribute to traffic congestion, contributing high levels of air pollutant and greenhouse gas emissions, and result in excessive energy use from the vehicle trips needed to transport MSS brine. In addition, this alternative could result in environmental impacts in the event of well failure or leaks, such as groundwater contamination from the highly saline brine. Therefore, this alternative was not evaluated further in the EIR.

Cargill also considered two alternatives in which MSS would be returned to the Bay without the need to connect to EBDA's system. Based on their environmental impacts and other factors, EBDA determined that these alternatives, described below, need not be evaluated further in the EIR:

- Barge to Deep-Water Ocean Alternative: This alternative would require the use of a barge to transport excess MSS brine to a deep-water location in the Pacific Ocean (e.g., the San Francisco Channel Bar Ocean Dredged Material Disposal Site). However, the alternative would require constructing substantial new infrastructure and a lengthy administrative approval process involving some or all of the following agencies: USACE; NMFS; CDFW; CSLC; the California Coastal Commission; BCDC; the San Francisco Bay RWQCB; the City of Newark, Redwood City, and/or the Port of Redwood City; Alameda Flood Control District; and possibly the US Environmental Protection Agency. First and foremost, however, an act of Congress would be needed to revise the Disposal Site authorization to allow for the deposit of salt (currently authorized for dredged soil). The use of a barge would also result in high levels of air pollutant and greenhouse gas emissions and excessive energy use. Therefore, this alternative was not evaluated further in the EIR.
- Direct Discharge to the Bay Alternative: Under this alternative, MSS brine would be discharged to the Bay directly from Cargill's Solar Salt Facility. This alternative would require improvements to the Solar Salt Facility, including construction of on-site pumps, pipelines, and a new outfall. Cargill determined that this alternative would be potentially infeasible because it would require lengthy coordination with the San Francisco Bay RWQCB to obtain a National Pollutant Discharge Elimination System (NPDES) permit for discharges to the Bay. This alternative would not have the advantage of utilizing EBDA's existing freshwater effluent to dilute the MSS brine to levels that are at or below Bay salinity levels before being discharged. Rather, this alternative would require substantial Bay water intake in order to dilute the MSS brine to salinity levels that would meet the RWQCB's waste discharge requirements (i.e., approximately 200 million gallons per day would be required over a period of 10 years). Therefore, this alternative was not evaluated further in the EIR.

Cargill, in consultation with EBDA, also considered two other alternatives that are similar to the project and in which MSS brine would be transferred to EBDA's effluent conveyance system through an MSS transport pipeline for discharge to the Bay under EBDA's NPDES permit. These alternatives would include the same Solar Salt Facility improvements as the project (i.e., on-site pipelines and pumping facilities), which are described in Sections 2.6.1 through 2.6.4 of the Draft EIR. However, these alternatives differ from the project with respect to the MSS transport pipeline alignment from Cargill's Solar Salt Facility to EBDA's Oro Loma Sanitary District/Castro Valley Sanitary District Water Pollution Control Plant. Under these alternatives, the MSS transport pipeline alignment would largely avoid city street rights-of-way. These alternatives, described below, were not evaluated further in the EIR:

- Bayside Parallel Pipe Alternative – Landfill Route Option: Under this alternative, the MSS transport pipeline alignment would skirt the edges of existing or former Cargill-owned or -operated salt ponds. This alignment would be similar to the alignment proposed under the Bayside Parallel Pipe Alternative (Alternative 2), which is described in Section 5.4.3 of the Draft EIR. However, the alignment would differ for the segment of pipeline between Enterprise Avenue and Oro Loma Marsh (also known as the Hayward Regional Shoreline). For this segment of pipeline, the alignment would travel through the West Winton Landfill, a closed landfill owned by the City of Hayward, and the All Cities Landfill, a former landfill owned and operated by Alameda County Flood Control and Water Conservation District (ACFCWCD). Similar to Alternative 2, this alignment would avoid disruptions on city streets, but would pass through wetlands and sensitive habitat and landfills containing waste materials. This alternative was dismissed because it would have potentially greater impacts related to biological resources, hydrology and water quality, and hazards and hazardous materials. In addition, this alternative was dismissed because it would require the approval of several agencies and private companies, including ACFCWCD, the City of Hayward, the East Bay Regional Park District, the San Francisco RWQCB, the California Department of Resources Recycling and Recovery, the Alameda County Department of Environmental Health, the State Water Resources Control Board, Waste Management of Alameda County, and HBF Enterprises. Any one of these entities could withhold approval of this alternative, and the approval process would be lengthy and uncertain. Therefore, this alternative was not evaluated further in the EIR.
- Union Pacific Railroad (UPRR) Route Alternative: Under this alternative, the MSS brine transport pipeline alignment would be routed within and adjacent to UPRR rights-of-way to avoid disruptions on city streets. However, EBDA determined that this alternative would be infeasible because it would require extensive coordination with UPRR and there would be insufficient space to install the pipeline in some segments. Therefore, this alternative was not evaluated further in the EIR.

5.4.2 Alternatives Considered in the EIR

Three alternatives, representing a range of reasonable alternatives to the proposed project, were selected for detailed analysis in the EIR. The goal for evaluating these alternatives was to identify ways to avoid or lessen the significant environmental effects resulting from implementation of the proposed project while attaining most of the project objectives.

The following sections provide a general description of each alternative, its ability to meet the project objectives, and a qualitative discussion of its comparative environmental impacts. As provided in Section 15126.6(d) of the State CEQA Guidelines, the significant effects of these alternatives are identified in less detail than those of the proposed project in the EIR.

NO PROJECT–NO DEVELOPMENT ALTERNATIVE

Summary of Alternative

CEQA requires a "no project" alternative to be evaluated in an EIR. The No Project–No Development Alternative assumes no changes to existing facilities and operations at Cargill's Solar Salt Facility. No new on-site pipelines and pumping facilities or off-site underground pipeline connecting to EBDA's existing outfall system would be constructed. The project site would remain in its current condition, and Cargill would continue to produce salt

products consistent with existing operations. The approximately 6 million tons of existing residual MSS would continue to be stored in Ponds 12 and 13, and more would accumulate. Over the next 20–50 years, rising sea levels would increase the risk of Bay water overtopping the containment berms and releasing MSS brine into the Bay.

Reasons for Rejecting Alternative

Pursuant to CEQA Section 21081(a)(3) and State CEQA Guidelines Section 15091(a)(3), based on the whole of the record, the EBDA Commission finds that the specific economic, legal, social, technological, or other considerations, including failure to feasibly attain some of the basic objectives of the project, render No Project Alternative infeasible. The EBDA Commission finds that this alternative is infeasible and less desirable than the Project and rejects the No Project Alternative because the EIR concluded that implementing the No Project–No Development Alternative would result in greater impacts on biological resources than would the project and reduced impacts related to air quality, cultural and tribal cultural resources, geology and soils, greenhouse gas emissions and climate change, hazards and hazardous materials, hydrology and water quality, noise and vibration, and recreation. Although implementing the No Project–No Development Alternative would avoid several of the project's impacts, including the significant and unavoidable impact from construction noise, this alternative would not meet the project objectives listed in Section 2.4, "Project Objectives," of the Draft EIR.

Notably, BCDC anticipates that global warming will result in 16 inches of sea level rise in the San Francisco Bay by 2050 (City of Fremont 2011). A Sea Level Rise Assessment developed for the salt ponds identified high-priority berms that could be overtopped by a combination of 6 inches of sea level rise and a 100-year storm event (AECOM 2021). A large MSS inventory remains in the Cargill facility in Ponds 12 and 13 under the No Project–No Development Alternative, MSS would continue to be stored in existing ponds at the Solar Salt Facility, and the high-salinity brine in these ponds would be susceptible to potential release into the Bay in the event of a future berm failure from increased wind and wave action triggered by sea level rise. A release of high-salinity brine could create habitat conditions in the Bay and tributaries such as Plummer Creek that would be unsuitable for special-status fish species or other aquatic communities that provide foraging resources. The extent of potential salinity impacts is unknown, but the impacts likely would be reduced by mixing and tidal action with distance from the Solar Salt Facility. The extent of special-status fish impacts would also be affected by the low to moderate potential for transitory, and often seasonal, occurrence. Additional impacts on adjoining tidal marsh habitat and associated species may also occur as a result of hypersaline conditions as brine is deposited and accumulates in the intertidal zone, potentially creating salinity conditions unsuitable for marsh vegetation.

Sea level rise is one of the reasons why this project was proposed. The project would move brine containing MSS through the system faster to minimize the risk of the MSS inventory being released into the San Francisco Bay in the event of a future berm failure from increased wind and wave action triggered by sea level rise. The EBDA Commission hereby finds that this reason is an independent ground for rejecting the No Project–No Development Alternative and by itself, independent of any other reason, justifies rejection of this alternative.

Each of the aforementioned considerations is sufficient, both by itself and in combination with the other aforementioned considerations, to reject the No Project Alternative.

ALTERNATIVE 1: IN-PIPE ALTERNATIVE

Summary of Alternative

Similar to the project, the In-Pipe Alternative would involve transporting excess MSS brine to EBDA's effluent conveyance system for discharge to the Bay under EBDA's NPDES permit. This alternative would include the same on-site pipelines and pumping facilities at the Solar Salt Facility as those described for the project. Alternative 1 would differ from the project with respect to the MSS brine transport pipeline route. This alternative proposes the construction of a 7.5-mile MSS brine transport pipeline plus installation of 4 miles of liner within EBDA's existing effluent pipeline to prevent corrosion in EBDA's system. The transport pipeline would connect with EBDA's effluent conveyance system just downstream of the Union Sanitary District Alvarado Treatment Plant in Union City. MSS brine would then be transported to EBDA's outfall using EBDA's effluent conveyance pipeline from the Alvarado Treatment Plant.

Under this alternative, Cargill would need to construct only 7.5 miles of new underground pipeline instead of up to 16 miles of pipeline that would be needed for the project. However, approximately 3.3 miles downstream of the Alvarado Treatment Plant at Station 108+26 within the EBDA effluent pipeline and continuing for approximately 4 miles to just downstream of the Oro Loma/Castro Valley Facility, the EBDA effluent pipeline does not consistently flow full, nor would it flow full with the addition of the MSS brine. The addition of chlorides from the MSS brine within this segment of pipe would increase the pipe's susceptibility to corrosion. To prevent corrosion, the 4-mile segment of pipeline would be lined. The liner would be installed using the sliplining method, which involves inserting a new pipeline of smaller diameter into the existing pipe and then grouting the annular space between the existing pipe and the new pipe. This would reduce the diameter of the existing EBDA effluent pipeline in the affected segment by potentially up to 5 inches. The liner is expected to provide corrosion protection over a span of approximately 50 years.

In addition to laydown areas along the 7.5-mile route, this alternative would require approximately 24 access pits at periodic intervals along the 4-mile section of EBDA's effluent pipeline to install the liner in segments. Bypass pumping would also be required during sliplining of each segment to route effluent within the EBDA system around the work area and thereby support continued operation of the EBDA system during construction. A pipe would be laid along the ground surface adjacent to the work area, and portable pumps would be used to bypass flows in the EBDA system around the work area.

Overall, implementing Alternative 1 is expected to result in less ground disturbance (approximately 44.2 acres) than the proposed project (approximately 57.9 acres) and smaller excavation quantities (approximately 213,457 cubic yards) than the proposed project (224,885 cubic yards). Similar to the project, construction would take up to approximately 18 months to complete. Following construction, operations and maintenance activities would be similar to those of the project.

Reasons for Rejecting Alternative

Pursuant to CEQA Section 21081(a)(3) and State CEQA Guidelines Section 15091(a)(3), based on the whole of the record, the EBDA Commission finds that the specific economic, legal, social, technological, or other considerations, including failure to feasibly attain some of the basic objectives of the project, render Alternative 1 infeasible. The EBDA Commission finds that this alternative is infeasible and less desirable than the Project and rejects Alternative 1 because it would not avoid the project's significant and unavoidable impact, would not meet some of the project objectives, and could require additional maintenance costs over the lifetime of the project.

Alternative 1 would result in some impacts that are greater than those of the project, including greater potential to disturb known archaeological resources, greater potential to adversely affect special-status species and habitats, greater potential to release pollutants from project site inundation, greater disruptions to parks and recreational facilities, and greater safety hazards to recreationists. However, most of the impacts under Alternative 1 would be reduced compared to those of the project. For example, the reduced degree of construction and excavation would reduce the potential to encounter native soils that could contain previously unknown cultural resources, reduce the area of ground disturbance resulting in water quality impacts, reduce the potential for the release of hazardous materials to the public and the environment, and reduce the emissions of criteria air pollutants and GHGs generated by the construction and operation of the project. Alternative 1 would also have reduced construction-related noise impacts compared to those of the proposed project, but the impact would remain significant and unavoidable under Alternative 1.

Alternative 1 would achieve most of the objectives of the project. Like the project, Alternative 1 would provide brine disposal services to Cargill and economic benefits to EBDA, create infrastructure to further EBDA's sustainability objectives, optimize use of existing EBDA infrastructure and excess capacity, minimize impacts on water quality and aquatic resources from MSS brine discharge by using EBDA's existing outfall, facilitate liquid bittern harvest and MSS brine disposal, and prevent the operational and environmental impacts of Bay water overtopping the berms surrounding MSS ponds as a result of sea level rise. However, Alternative 1 would not achieve the project objective of balancing impacts due to disruption to local jurisdictions with impacts on sensitive environments, because Alternative 1 would require greater disturbance to environmentally sensitive areas, including the Eden Landing Ecological Reserve and Oro Loma Marsh in the Hayward Regional Shoreline. In addition, Alternative 1 would not achieve the project

objective of minimizing disruptions to EBDA's existing system. Alternative 1 would require greater disruption to EBDA's existing operations during installation of the liner in segments of EBDA's effluent pipeline. Extensive bypass pumping would be required during sliplining of each segment to route effluent within the EBDA system around the work area and thereby support continued operations of the EBDA system during construction. Lastly, Alternative 1 would involve sliplining of only the most vulnerable sections of EBDA's existing effluent pipeline. Therefore, unlined sections could potentially be susceptible to corrosion risks and could require additional maintenance over the lifetime of the project.

Each of the aforementioned considerations is sufficient, both by itself and in combination with the other aforementioned considerations, to reject Alternative 1.

ALTERNATIVE 2: BAYSIDE PARALLEL PIPE ALTERNATIVE

Summary of Alternative

Pursuant to CEQA Section 21081(a)(3) and State CEQA Guidelines Section 15091(a)(3), based on the whole of the record, the EBDA Commission finds that the specific economic, legal, social, technological, or other considerations, including failure to feasibly attain some of the basic objectives of the project, render Alternative 2 infeasible. The EBDA Commission finds that this alternative is infeasible and less desirable than the Project and rejects Alternative 2 because it would result in greater environmental impacts than the project overall, would not avoid the project's significant and unavoidable impact, would not meet some of the project objectives, and could result in substantial delays in implementation because of the extensive coordination with applicable resource agencies and permitting that would be required.

Similar to the project, the Bayside Parallel Pipe Alternative would involve transporting excess MSS brine to EBDA's effluent pipeline conveyance system for discharge to the Bay under EBDA's NPFDES permit. This alternative would include the same on-site pipelines and pumping facilities at the Solar Salt Facility as those of the project. This alternative would differ from the project with respect to the MSS brine transport pipeline route. The brine transport pipeline would extend in a northerly direction from the Solar Salt Facility to the EBDA force main at the Oro Loma Facility along a route west of and closer to the Bay than the proposed project alignment, with a total length of approximately 17 miles. Discharge to the EBDA system would occur in the same manner as for the project.

Overall, implementing Alternative 2 is expected to result in more ground disturbance (approximately 60.8 acres) than the proposed project (approximately 57.9 acres) and greater excavation quantities (approximately 236,380 cubic yards) than the proposed project (224,885 cubic yards). Similar to the project, construction would take approximately 18 months to complete. Following construction, operations and maintenance activities would be similar to those of the project.

Like the project, this alternative would avoid the section of EBDA's system that would be susceptible to corrosion from introduction of the MSS brine. However, this alternative would require work in environmentally sensitive areas, including Oro Loma Marsh and Eden Landing. Directional drilling would be required in several areas to minimize impacts on wetlands and sensitive habitat. This alternative would also require temporary closures of the Bay Trail. Consequently, this alternative would require extensive coordination with various resource agencies, including EBRPD, USACE, the San Francisco RWQCB, NMFS, USFWS, ACFCWCD, and BCDC. Additional time for obtaining permits and conducting environmental review would be needed.

Reasons for Rejecting Alternative

Alternative 2 would result in greater impacts than the project overall. Because the pipeline alignment would be located farther away from urban areas under Alternative 2 than under the project, fewer sensitive receptors would be exposed to increases in construction-related noise and vibration levels, and the public would be exposed to fewer safety hazards related to potential release of hazardous materials. Even with mitigation, the construction-related noise and vibration impact would remain significant and unavoidable under Alternative 2. Additionally, the higher degree of construction and excavation required under Alternative 2 would increase the potential to encounter native soils that could contain cultural resources, increase the area of ground disturbance resulting in water quality impacts,

increase the emissions of criteria air pollutants and GHGs generated by the construction and operation of the project, and increase access disruptions and safety hazards to recreationists. Furthermore, the pipeline alignment would be located in more environmentally sensitive areas than the project, including wetland habitat in Oro Loma Marsh and Eden Landing Ecological Reserve.

Alternative 2 would achieve most of the objectives of the project. Like the project, Alternative 2 would provide brine disposal services to Cargill and economic benefits to EBDA, create infrastructure to further EBDA's sustainability objectives, minimize disruptions to EBDA's existing system, optimize use of existing EBDA infrastructure and excess capacity, minimize impacts on water quality and aquatic resources from MSS brine discharge by using EBDA's existing outfall, facilitate liquid bittern harvest and MSS brine disposal, and prevent the operational and environmental impacts of Bay water overtopping the berms surrounding MSS ponds as a result of sea level rise. However, Alternative 2 would not achieve the project objective of balancing impacts due to disruption to local jurisdictions with impacts to sensitive environments, because Alternative 2 would require greater disturbance to environmentally sensitive areas, including wetland habitat in Oro Loma Marsh and Eden Landing Ecological Reserve.

Pursuant to CEQA Section 21081(a)(3) and State CEQA Guidelines Section 15091(a)(3), the EBDA Commission rejects Alternative 2 because it would result in greater environmental impacts than the project overall, would not avoid the project's significant and unavoidable impact, would not meet some of the project objectives, and could result in substantial delays in implementation because of the extensive coordination with applicable resource agencies and permitting that would be required.

Each of the aforementioned considerations is sufficient, both by itself and in combination with the other aforementioned considerations, to reject Alternative 2.

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

Because implementing the No Project–No Development Alternative would avoid all adverse impacts resulting from construction and operation of the project and Alternatives 1 and 2, it is the environmentally superior alternative. However, the No Project–No Development Alternative would not meet the objectives of the project.

When the environmentally superior alternative is the No Project Alternative, the State CEQA Guidelines (Section 15126[d][2]) require selection of an environmentally superior alternative from among the other alternatives that were evaluated. Alternative 1 would result in some impacts that are greater than those of the project, including greater potential to disturb known archaeological resources, greater potential to adversely affect special-status species and habitats, greater potential to release pollutants from project site inundation, greater disruptions to parks and recreational facilities, and greater safety hazards to recreationists. However, most of the impacts under Alternative 1 would be reduced compared to those of the project. For example, the reduced degree of construction and excavation would reduce the potential to encounter native soils that could contain cultural resources, reduce the area of ground disturbance resulting in water quality impacts, reduce the potential for the release of hazardous materials to the public and the environment, and reduce the emissions of criteria air pollutants and GHGs generated by the construction and operation of the project. Alternative 1 would also have reduced construction-related noise impacts compared to the proposed project, but the impact would remain significant and unavoidable under Alternative 1. Because overall impacts would be less under Alternative 1, Alternative 1 would be the environmentally superior alternative.

Although Alternative 1 is the environmentally superior alternative, this alternative presents several challenges associated with the installation of 4 miles of liner within EBDA's existing effluent pipeline to prevent corrosion in EBDA's system. First, Alternative 1 would require greater disruption to EBDA's existing operations during sliplining activities. Extensive bypass pumping would be required during sliplining of each segment to route effluent within the EBDA system around the work area and thereby support continued operations of the EBDA system during construction. Additionally, Alternative 1 would require greater disturbance to environmentally sensitive areas, including the Eden Landing Ecological Reserve and Oro Loma Marsh in the Hayward Regional Shoreline. Lastly, Alternative 1 would involve sliplining of only the most vulnerable sections of EBDA's existing effluent pipeline. Therefore, unlined sections could potentially be susceptible to corrosion risks and could require additional maintenance over the lifetime of the project. Based on the above discussion, the project would better attain the

project objectives of balancing impacts due to disruption to local jurisdictions with impacts on sensitive environments and minimizing disruptions to EBDA's existing system.

Alternative 2 would not be the environmentally superior alternative because, although some impacts would be reduced compared to those of the project, implementing this alternative would result in greater impacts than the project overall. Because the pipeline alignment would be located farther away from urban areas under Alternative 2 than under the project, fewer sensitive receptors would be exposed to increases in construction-related noise and vibration levels, and the public would be exposed to fewer safety hazards related to potential release of hazardous materials. However, even with mitigation, the construction-related noise and vibration impact would remain significant and unavoidable under Alternative 2. Additionally, the higher degree of construction and excavation required under Alternative 2 would increase the potential to encounter native soils that could contain cultural resources, increase the area of ground disturbance resulting in water quality impacts, increase the emissions of criteria air pollutants and GHGs generated by the construction and operation of the project, and increase access disruptions and safety hazards to recreationists. Furthermore, the pipeline alignment would be located in more environmentally sensitive areas, including wetland habitat in Oro Loma Marsh and Eden Landing Ecological Reserve, than it would under the project. Work within these areas would require extensive coordination with applicable resource agencies and permitting.

6 STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires the lead agency to balance the economic, social, legal, technological, and other benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. Specifically, CEQA Section 21002 provides that "in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof." In addition, CEQA Section 21002.1(c) states, "If economic, social, or other conditions make it infeasible to mitigate one or more significant effects on the environment of a project, the project may nonetheless be carried out or approved at the discretion of a public agency...." State CEQA Guidelines Section 15092 provides that a "public agency shall not decide to approve or carry out a project for which an EIR was prepared unless… [the agency has] determined that any remaining significant effects on the environment found to be unavoidable under Section 15091 are acceptable due to overriding concerns as described in Section 15093." Finally, State CEQA Guidelines Section 15093(a) provides that "[i]f the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered 'acceptable.'"

The EBDA Commission has carefully balanced the benefits of the project against the significant environmental effects identified in the EIR that cannot be feasibly mitigated to a less-than-significant level. Notwithstanding the significant environmental effects identified in the EIR that cannot feasibly be eliminated, lessened, or mitigated to a less-than-significant level, the EBDA Commission, acting pursuant to CEQA Sections 21002 and 21002.1 and State CEQA Guidelines Sections 15092 and 15093, hereby determines that the significant effects on the environment found to be unavoidable, as set forth below, are acceptable because of the overriding considerations described below. The EBDA Commission finds that each one of the following benefits of the proposed project, as set forth below, independent of each of the other benefits, warrants approval of the proposed project notwithstanding the unavoidable environmental impacts of the proposed project.

6.1 SIGNIFICANT AND UNAVOIDABLE IMPACTS

The project would have two significant and unavoidable impacts:

- Impact 3.9-1 (the project has the potential to expose existing receptors to short-term construction noise above applicable thresholds, and temporary increases in noise levels would be as high as 31 A-weighted decibels). This is a short-term impact that would cease occurring once construction is completed, and
- Cumulative impact related to construction noise. This also is a short-term impact that would cease occurring once construction is completed.

6.2 PROJECT BENEFITS

Pursuant to Public Resources Code Section 21081 and CEQA Guidelines sections 15091 et. seq. and after extensive review of the entire administrative record, the EBDA Commission has determined that the project should be approved and that the significant and unavoidable environmental effects of the project are outweighed by the following environmental, economic, social, technological, and other overriding considerations. The below stated reasons summarize the goals and objectives of the proposed Project and provide the rationale for the benefits of the proposed Project, each one being a separate and independent basis on which to approve the proposed project. Substantial evidence in the record demonstrates that approval and implementation of the project would provide the benefits listed below. The EBDA Commission thus finds as follows:

- The project would provide wastewater disposal capacity and services to Cargill in a manner that provides economic advantage to EBDA Member Agencies, with emphasis on offsetting and reducing expenses to EBDA and its ratepayers, and furthers the purpose and goals of EBDA's Joint Powers Public Agency Agreement.

- After Cargill processes its inventory of MSS, the permanent infrastructure (i.e., pipeline) created by the project could potentially be used by EBDA for future regional water recycling efforts by EBDA and/or EBDA Member Agencies to further EBDA's sustainability objectives, including those in support of reclamation and reuse of wastewater.
- The project provides resilience to and environmental protection from the long-term threat of sea level rise. As discussed in Section 5.4.2, above, BCDC anticipates that global warming will result in 16 inches of sea level rise in the San Francisco Bay by 2050 (City of Fremont 2011). A Sea Level Rise Assessment developed for the salt ponds identified high-priority berms that, if no action were taken to increase their resiliency, could be overtopped by a combination of 6 inches of sea level rise and a 100-year storm event (AECOM 2021). A large MSS inventory remains in the Cargill facility in Ponds 12 and 13. The high-salinity brine in these ponds would be susceptible to potential release into the Bay in the event of a future berm failure from increased wind and wave action triggered by sea level rise. A release of high-salinity brine could create habitat conditions in the Bay and tributaries such as Plummer Creek that would be unsuitable for special-status fish species or other aquatic communities that provide foraging resources. The extent of potential salinity impacts is unknown, but the impacts likely would be reduced by mixing and tidal action with distance from the Solar Salt Facility. The extent of impacts on special-status fish would also be affected by their low to moderate potential to occur in the project area because these fish are transitory and often migrate seasonally. Additional impacts on adjoining tidal marsh habitat and associated species may also occur as a result of hypersaline conditions as brine is deposited and accumulates in the intertidal zone, potentially creating salinity conditions unsuitable for marsh vegetation. The project would move brine containing MSS through the system faster and minimize the risk that the MSS inventory would be released to the San Francisco Bay in the event of a future berm failure from increased wind and wave action triggered by sea level rise. Accordingly, a key project objective and benefit would be to prevent operational and environmental impacts of Bay water overtopping the berms surrounding MSS ponds due to sea level rise.
- The project would optimize use of existing EBDA infrastructure and excess capacity to process and blend MSS brine and would use EBDA's strategic connection to an existing deep-water outfall to minimize impacts on water quality and aquatic resources in receiving waters associated with the discharge of residual MSS brine.

In conclusion, the EBDA Commission finds that the foregoing benefits provided through approval of the proposed project outweigh the identified short-term (construction only) significant and unavoidable adverse environmental impacts. The EBDA Commission further finds that each of the individual benefits discussed above outweighs the unavoidable adverse environmental effects identified in the EIR and therefore finds those impacts to be acceptable. The EBDA Commission further finds that each of the benefits listed above, standing alone, is sufficient justification for the EBDA Commission to override these unavoidable environmental impacts.

7 MITIGATION MONITORING AND REPORTING PROGRAM

EBDA has prepared an MMRP for the project (Attachment A to these findings). The EBDA Commission, in adopting these findings, also approves the MMRP. As lead agency under CEQA, EBDA is responsible for the overall implementation and management of the MMRP. However, Cargill, as the project proponent, will ultimately execute many of the mitigation actions. EBDA will use the MMRP to track compliance with project mitigation measures. The MMRP will remain available for public review during the compliance period. The MMRP is incorporated into the proposed project and is approved in conjunction with certification of the EIR and adoption of these findings of fact. If any conflict arises between these findings and the MMRP with respect to the requirements of an adopted mitigation measure, the more stringent measure shall control and shall be incorporated automatically into both the findings and the MMRP.

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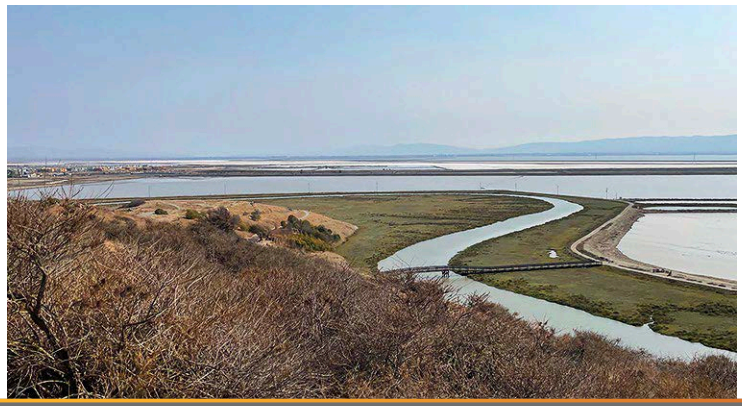
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Attachment A

Mitigation Monitoring and Reporting Program







MITIGATION MONITORING AND REPORTING PROGRAM FOR THE

Cargill Mixed Sea Salts Processing and Brine Discharge Project

SCH No. 2022050436

Prepared for:

EBDA
EAST BAY DISCHARGERS AUTHORITY

July 2025

MITIGATION MONITORING AND REPORTING PROGRAM FOR THE

Cargill Mixed Sea Salts Processing and Brine Discharge Project

SCH No. 2022050436

Prepared for:

East Bay Dischargers Authority
2651 Grant Avenue
San Lorenzo, CA 94580-1841

Contact:

Jackie Zipkin, PE
General Manager

Prepared by:

Ascent Environmental
2054 University Ave, Suite 400
Berkeley, CA 94704

Contact:

Nicole Greenfield
Environmental Planner

July 2025

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TABLE OF CONTENTS

Section Page

LIST OF ABBREVIATIONS II

INTRODUCTION 1

PURPOSE OF MITIGATION MONITORING AND REPORTING PROGRAM 1

ROLES AND RESPONSIBILITIES 1

MITIGATION MONITORING AND REPORTING PROGRAM TABLE 1

REFERENCES 36

Attachments

Attachment A Figure 3.4-1: Proposed Tribal Monitoring Area

LIST OF ABBREVIATIONS

ACWD	Alameda County Water District
ASTM	American Society for Testing and Materials
BAAD	Bay Area Air District (formerly known as Bay Area Air Quality Management District)
BCDC	San Francisco Bay Conservation and Development Commission
BMP	best management practice
Caltrans	California Department of Transportation
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
CSLC	California State Lands Commission
CUPA	Certified Unified Program Agency
dBA	A-weighted decibels
DTSC	California Department of Toxic Substances Control
EBDA	East Bay Dischargers Authority
EBRPD	East Bay Regional Park District
EPA	US Environmental Protection Agency
ESA	Environmental Site Assessment
FEMA	Federal Emergency Management Agency
GSA	Groundwater Sustainability Agency
HASP	health and safety plan
MBTA	Migratory Bird Treaty Act
MSS	mixed sea salt
MTC	Metropolitan Transportation Commission
NO_X	nitrous oxide
OSHA	Occupational Safety and Health Administration
PRC	Public Resources Code
RCRA	Resource Conservation and Recovery Act
RWQCB	regional water quality control board
SFBAAB	San Francisco Bay Area Air Basin
SR	state route
USACE	US Army Corps of Engineers
USFWS	US Fish and Wildlife Service

INTRODUCTION

In accordance with the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] Section 21000 et seq.), the East Bay Dischargers Authority (EBDA) prepared an environmental impact report (EIR) for the Cargill Mixed Sea Salts Processing and Brine Discharge Project (State Clearinghouse No. 2022050436) that identified significant impacts and mitigation measures that would reduce the identified impacts to a less-than-significant level, where feasible.

CEQA Section 21081.6 and State CEQA Guidelines Sections 15091(d) and 15097 require public agencies to adopt a reporting and monitoring program for the changes made to the project it has adopted or made a condition of project approval to mitigate or avoid significant effects on the environment. This mitigation monitoring and reporting program (MMRP) has been prepared for the project because the EIR identifies potentially significant adverse impacts related to project implementation, as well as mitigation measures to reduce those impacts. Adoption of this MMRP would occur along with approval of the project.

PURPOSE OF MITIGATION MONITORING AND REPORTING PROGRAM

This MMRP has been prepared to ensure that all required mitigation measures are implemented and completed in a satisfactory manner before and during project construction and operation, as applicable. Table 1, provided below, has been prepared to assist the responsible parties with implementing the mitigation measures. It identifies the mitigation measures, the entities responsible for implementing the mitigation measures, and the timeframe for implementation of the mitigation measures. The table also includes a column for EBDA to document implementation of the mitigation measures after project approval. The numbering of mitigation measures follows the numbering used in the EIR. Mitigation measures that are referenced more than once in the EIR are not duplicated in the MMRP table.

ROLES AND RESPONSIBILITIES

EBDA is responsible for overall administration of the MMRP and for verifying that the project proponent, construction contractor, or other designated party has completed the necessary actions for each measure. The party responsible for implementing each item will identify the staff members responsible for coordinating with EBDA on the MMRP.

MITIGATION MONITORING AND REPORTING PROGRAM TABLE

Table 1, which identifies the mitigation measures applicable to the proposed project, includes the following table columns:

- Impact: This column presents all the impacts disclosed in the EIR for which mitigation was identified.
- Mitigation Measures: This column presents all the mitigation measures identified in the EIR, each of which has been adopted and incorporated into the project.
- Action(s): For every mitigation measure, one or more actions are described. The actions delineate the means by which the mitigation measures will be implemented and, in some instances, the criteria for determining whether a measure has been successfully implemented. Where mitigation measures are particularly detailed, the description of the action may refer back to the measure.
- Implementing Party: This column identifies the entity responsible for undertaking the required action.
- Timing: Implementation of the action must occur before or during some part of project approval, project design, or project construction or on an ongoing basis. This column identifies the timing for implementation of each mitigation measure.
- Verification of Compliance: EBDA is responsible for ensuring that mitigation measures are successfully implemented. The "Verification of Compliance" column is to be used by EBDA to indicate how and when a mitigation measure was implemented. EBDA, at its discretion, may delegate implementation responsibility or portions thereof to qualified consultants or contractors.

Table 1 Mitigation Monitoring and Reporting Program

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
Air Quality					
Impact 3.2-1: Potential to Generate Emissions of Criteria Air Pollutants and Precursors during Project Construction	**Mitigation Measure 3.2-1: Contribute Funding to an Off-Site Mitigation Program** BAAD considers the use of an off-site mitigation program as a feasible mitigation measure (BAAD 2012). This mitigation strategy has been implemented by land use projects throughout the state as a means to reduce a project's significant air quality impacts to a less-than-significant level. The project has already incorporated Tier 4 final engines to reduce NO_X emissions, which is a common and feasible measure known to reduce NO_X emissions greatly. However, the project's emissions would continue to exceed BAAD's thresholds of significance for NO_X. The project applicant shall provide funding to a program or programs within the SFBAAB that reduce NO_X emissions. BAAD oversees several programs and funds to reduce emissions. Examples include the Carl Moyer Memorial Program, which provides grants to upgrade or replace heavy-duty diesel vehicles and equipment, including on- and off-road vehicles and equipment, school buses, agricultural equipment, marine vessels, and locomotives. Other options that the project applicant may consider to reduce NO_X emissions include the Mobile Source Incentive Fund, the Transportation Fund for Clean Air, and the Goods Movement Program. The project applicant shall provide funding to at least one, or more, of these programs to reduce construction-generated NO_X emissions for each year of construction adequately to offset the exceedance of the BAAD NOx threshold as verified by BAAD. The cost to mitigate shall be determined when the project applicant chooses to engage in any of the aforementioned programs, but that cost shall be sufficient to reduce NO_X emissions sufficiently to meet BAAD's thresholds of significance, as verified by BAAD.	Confirm that the project proponent provides funding to a program or programs within the SFBAAB that reduce NO_X emissions.	Project proponent, with oversight by EBDA	Before project implementation	
Biological Resources					
Impact 3.3-1: Potential Substantial Adverse Effect, Either Directly or through Habitat Modifications, on Any Species Identified as a	**Mitigation Measure 3.3-1: Implement Standard Avoidance and Minimization Measures for Biological Resources** ▶ All construction personnel will visually check for wildlife beneath vehicles and construction equipment before moving or operating them. If an animal is discovered and does not leave	Confirm that the mitigation measure is included in the construction contract. Confirm that standard avoidance and minimization	Construction contractor and designated project biologist,	Conduct one-time check of the construction contract before the contract is executed.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
Candidate, Sensitive, or Special-Status Species in Local or Regional Plans, Policies, or Regulations, or by CDFW or USFWS; Impact 3.3-2: Potential Substantial Adverse Effect on Any Riparian Habitat or Other Sensitive Natural Community Identified in Local or Regional Plans, Policies, or Regulations, or by CDFW or USFWS; Impact 3.3-3: Potential Substantial Adverse Effect on State or Federally Protected Wetlands (including, but Not Limited to, Marshes, Vernal Pools, Coastal Wetlands, etc.) through Direct Removal, Filling, Hydrological Interruption, or Other Means; Impact 3.3-4: Potential Substantial Interference with the Movement of Any Native Resident or Migratory Fish or Wildlife Species or with Established Native Resident or Migratory Wildlife Corridors, or Impediment to the Use of Native Wildlife Nursery Sites; Impact 3.3-5: Potential Conflict with Any Local Policies or Ordinances Protecting Biological	the site on its own, personnel will contact the project biologist for direction before using equipment. ▶ Confine all heavy equipment, vehicles, and construction activities to existing access roads, road shoulders, and disturbed/developed or designated work areas. Limit work areas to what is necessary for construction. ▶ Minimize grading and vegetation removal along access roads and construction work areas. ▶ Do not allow pets, hunting, open fires, or firearms at the project site. ▶ During project activities, properly contain all trash that may attract predators in covered garbage receptacles and remove the trash from the site daily. Following construction, all trash and construction debris from project sites will be removed. ▶ Use only tightly woven netting or similar material for all geo-synthetic erosion control materials such as coir rolls and geo-textiles. No plastic monofilament matting will be used. ▶ If night work is conducted, all nighttime lighting will be focused on construction activities and directional shields will be used to direct lighting away from natural habitats.	measures are in place through periodic checks.	with EBDA oversight	Confirm that standard avoidance and minimization measures are in place through periodic checks for the duration of construction activities.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
Resources, Such as a Tree Preservation Policy or Ordinance; and Impact 3.3-6: Potential Conflict with the Provisions of an Adopted Habitat Conservation Plan, Natural Community Conservation Plan, or Other Approved Local, Regional, or State Habitat Conservation Plan					
Impacts 3.3-1 through 3.3-6, as listed above	**Mitigation Measure 3.3-2: Provide Worker Environmental Awareness Training** A USFWS- or CDFW-approved biologist (as applicable) will develop an environmental training and will present the training to all crew members before they begin work on the project. The training will include a description of special-status species with potential to occur, life history and habitat associations, general measures that are being implemented to conserve the species as they relate to the project, the terms and conditions of project permits, penalties for noncompliance, the boundaries of the construction areas, and the boundaries of environmentally sensitive areas. A handout will be provided to all participating personnel, and at least one copy will be kept on-site, in the job packet, during construction activities. On completion of the training, crew members will sign a form stating that they attended the training and understand the mitigation measures.	Confirm that the mitigation measure is included in the construction contract. Develop worker environmental awareness training and require crew members to sign an acknowledgment form. Keep handouts at job sites.	Construction contractor and designated USFWS- or CDFW-approved biologist, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Develop worker environmental awareness training and require crew members to sign an acknowledgment form before initiation of construction activities. Keep handouts at job sites for the duration of construction activities.	
Impacts 3.3-1, 3.3-5, and 3.3-6, as listed above	**Mitigation Measure 3.3-3: Conduct Focused Surveys for Nesting Special-Status Bird Species, Nesting Raptors, and Other Native Nesting Birds and Implement Protective Buffers** Prior to any planned construction activities occurring during the nesting season (approximately February 1 to August 31, as determined by a qualified biologist), a qualified biologist familiar with birds of California and with experience conducting nesting bird surveys will conduct focused surveys for special-status birds, other nesting raptors, and other native birds and will identify active nests. Preconstruction nesting bird surveys will be conducted within 14 days prior to when construction activities are initiated in each of the areas of suitable nesting habitat for northern harrier, salt-marsh common	Confirm that the mitigation measure is included in the construction contract. Conduct nesting bird surveys, implement protective buffers (in consultation with CDFW, as required), and conduct periodic monitoring. If take of burrowing owl cannot be avoided, consult with CDFW, obtain an ITP,	Project proponent, qualified biologist, and construction contractor, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Conduct nesting bird surveys and implement protective buffers (in consultation with CDFW, as required) within 14 days before the initiation of construction activities near suitable nesting habitat	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	yellowthroat, California black rail, Alameda song sparrow, tricolored blackbird, and yellow rail that are within 500 feet of the project footprint. In addition, nesting bird surveys will be conducted for all other common raptor species (within a 500-foot buffer) and passerine species (100-foot buffer) protected by the MBTA. Pre-construction surveys for white-tailed kite will occur within 0.25-mile area of the construction area. Impacts on nesting birds will be avoided by establishing appropriate buffers around active nest sites identified during focused surveys to prevent disturbance to the nest. Project activity will not commence within the buffer areas until a qualified biologist has determined that the young have fledged, the nest is no longer active, or reducing the buffer will not likely result in nest abandonment. An avoidance buffer of 500 feet will be implemented for white-tailed kite, in consultation with CDFW. For other species, a qualified biologist will determine the size of the buffer for nonraptor nests after a site- and nest-specific analysis. Initial work buffers typically will be 150 feet for raptors (other than special-status raptors) and 50 feet for nonraptor species (unless otherwise specified in other mitigation measures). Factors to be considered for determining buffer size will include presence of natural buffers provided by vegetation or topography, nest height above ground, baseline levels of noise and human activity, species sensitivity, and project activities. The size of the buffer may be adjusted if a qualified biologist, determines that such an adjustment would not be likely to adversely affect the nest. Any reduction to the avoidance buffer described herein for white-tailed kite (500 feet) or the typical initial work buffers for raptor and nonraptor species (150 feet and 50 feet respectively) will require consultation with CDFW. Periodic monitoring of the nest by a qualified biologist during project activities will be required if the activity has potential to adversely affect the nest, the buffer has been reduced, or if birds within active nests are showing behavioral signs of agitation (e.g., standing up from a brooding position, flying off the nest) during project activities, as determined by the qualified biologist. Where proposed ground-disturbing activities (e.g., grading, trenching, vegetation removal, staging) are implemented within or adjacent to habitats suitable for burrowing owls, a qualified biologist shall conduct surveys for burrowing owls in areas of habitat suitable for the species within 1,640 feet (500 meters) of the proposed activities. Inaccessible	and compensate for loss of burrowing owls (if needed).		when construction would occur during the nesting season (approximately February 1 to August 31), and conduct periodic monitoring during such construction activities. For burrowing owl, conduct surveys between February 15 and July 15.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	areas (e.g., adjacent private property) will not be surveyed directly, but the biologist may use binoculars or a spotting scope to survey these areas. A minimum of four surveys shall be conducted prior to initiation of ground-disturbing activity to determine whether burrowing owls occupy the site. Surveys shall be conducted according to Appendix D of the *2012 Staff Report on Burrowing Owl Mitigation prepared by the California Department of Fish and Game* (now CDFW) (CDFW 2012), or any subsequent updated guidance. If feasible, at least one survey should be conducted between February 15 and April 15 (i.e., the beginning of the breeding season when nests are being established) and the remaining surveys should be conducted between April 15 and July 15 (i.e., the peak of the breeding season when most burrowing owls have active nests), at least three weeks apart, as recommended in CDFW's 2012 guidance. Because burrowing owls may recolonize a site after only a few days, one of the surveys, or an additional survey, shall be conducted within 14 days before initiating ground disturbance activities to verify that take of burrowing owl would not occur. ▶ If no burrowing owls are found, no further mitigation shall be required. ▶ If a burrow occupied by a burrowing owl is found during the surveys, the project applicant shall establish and maintain a buffer around the occupied burrow and any identified satellite burrows (i.e., non-nesting burrows that burrowing owls use to escape predators or move young into after hatching) to prevent take of the burrowing owls. Burrow buffers shall be implemented as follows: (a) During the non-breeding season (September 1 through January 31), the minimum buffer distance shall be 164 feet (50 meters). During the breeding season (February 1 through August 31), the minimum buffer distance shall be increased to 1,640 feet (500 meters). (b) The buffer may be adjusted if, in consultation with CDFW, a qualified biologist determines that an alternative buffer shall not result in take of burrowing owl adults, young, or eggs because of particular site features (e.g., topography, natural line-of-sight barriers), level of project disturbance, or other considerations. If the buffer is reduced, a qualified biologist shall monitor the behavior of the burrowing owls during all project activities within 1,640 feet of the burrow. If the owls				

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	exhibit disturbed or agitated behaviors (e.g., vocalizations, bill snaps, fluffing feathers to increase body size appearance, drooping wings and rotating them forward, crouching and weaving back and forth) in response to the project activities, the biologist shall have the authority to halt the activities and re-establish a buffer consistent with item (a) until the agitated behavior ceases and normal behavior resumes. (c) The buffer shall remain in place around the occupied burrow and associated satellite burrows until a qualified biologist has determined through noninvasive methods that the burrows are no longer occupied by burrowing owls. A previously occupied burrow will be considered unoccupied if surveys demonstrate that no owls have used the burrow for seven consecutive days. ▶ Locations of burrowing owls detected during surveys shall be reported to the California Natural Diversity Database. ▶ If implementation of a buffer to prevent take of burrowing owls is not feasible, the applicant shall consult with CDFW and obtain an Incidental Take Permit (ITP) prior to commencing project-related ground-disturbing activities. The impacts of taking burrowing owls shall be minimized and fully mitigated.				
Impacts 3.3-1, 3.3-5, and 3.3-6, as listed above	**Mitigation Measure 3.3-4: Conduct Protocol-Level Surveys and Implement Protective Buffers for California Ridgway's Rail** Where feasible, project construction activities in suitable nesting habitat for California Ridgway's rail will not occur during the breeding season (February 1 through August 31). If project activities during the breeding season within suitable nesting habitat for the California Ridgway's rail are unavoidable, a qualified permitted biologist will conduct a protocol-level survey between January 15 to April 15 and within a year before construction begins. The survey will occur in suitable habitats within a 700-foot buffer around the project area. Survey methods would follow USFWS-approved *Site Specific Protocols for Monitoring Marsh Birds: Don Edwards San Francisco Bay and San Pablo Bay National Wildlife Refuges* (USFWS 2017). If California Ridgway's rails are confirmed to be present, additional coordination with CDFW and USFWS will be required.	Confirm that the mitigation measure is included in the construction contract. Schedule construction activities in suitable nesting habitat for California Ridgway's rail outside of the breeding season (February 1 through August 31). If this is unavoidable, conduct surveys before construction activities and if construction pauses for more than 14 days. If the species is confirmed to be present, obtain	Project proponent, qualified biologist, and construction contractor, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Schedule construction activities in suitable nesting habitat for California Ridgway's rail outside of the breeding season (February 1 through August 31). If this is unavoidable, conduct surveys before construction activities (in the spring of the same year and at least 14 days before construction in these areas)	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	If protocol surveys identify breeding California Ridgway's rails within 700 feet of the project area, no construction activities will occur within 700 feet of suitable habitat during the breeding season (February 1 through August 31) unless authorization is obtained from CDFW and USFWS. If the surveys confirm that there are no breeding California Ridgway's rails within 700 feet of the project area, work activities could occur during the breeding season (February 1 through August 31). If Ridgway's rail is observed during biological monitoring within the rail nesting season, work will stop within 700 feet of the observation and Cargill will coordinate with USFWS and CDFW to determine appropriate measures. Use of heavy equipment in suitable habitat will be minimized to the maximum extent practicable.	authorization from CDFW and USFWS for any construction activities within 700 feet of breeding California Ridgway's rails. Minimize use of heavy equipment in suitable habitat.		and if construction pauses for more than 14 days. Obtain authorization from CDFW and USFWS before initiating any construction activities within 700 feet of breeding California Ridgway's rails. Minimize use of heavy equipment for the duration of construction activities in suitable habitat for California Ridgway's rail breeding.	
Impacts 3.3-1, 3.3-5, and 3.3-6, as listed above	**Mitigation Measure 3.3-5: Avoid and Minimize Impacts to Western Snowy Plover** Nesting locations are to be identified through preconstruction surveys by a qualified biologist within 14 days prior to construction during the Western snowy plover breeding season (March 1 through September 14). No construction activities can be performed within 600 feet of an active Western snowy plover nest during the breeding season without the approval of USFWS. If construction occurs where chicks are present outside the 600-foot no-disturbance buffer and are foraging, then a qualified biologist will be present to ensure that no chicks are located in close proximity (i.e., within 200 feet) to construction activities. If chicks are present, then construction activities will be halted until they move away from the work area on their own volition.	Confirm that the mitigation measure is included in the construction contract. If construction occurs during the Western snowy plover breeding season (March 1 through September 14), conduct preconstruction surveys. If nests are present, obtain authorization from USFWS for any construction activities within 600 feet of active nests. Retain a qualified biologist to ensure that no chicks are located within 200 feet of construction activities.	Project proponent and qualified biologist, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Conduct surveys within 14 days before construction activities during the Western snowy plover breeding season (March 1 through September 14). Obtain authorization from USFWS before any construction activities within 600 feet of active nests. Retain a qualified biologist to monitor for chicks during construction activities where chicks are present outside the 600-foot no-disturbance buffer and are foraging.	
Impacts 3.3-1 through 3.3-3, 3.3-5, and 3.3-6, as listed above	**Mitigation Measure 3.3-6: Perform Biological Monitoring** For work that will occur in or adjacent to potential habitat for special-status species, a qualified biologist will be present during initial ground disturbing activities involving use of heavy equipment that	Confirm that the mitigation measure is included in the construction contract.	Project proponent and qualified	Confirm that the mitigation measure is included in the construction contract before the contract is executed.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	could cause noise or vibration disturbance to listed species (species state or federally listed as threatened or endangered, state species of special concern, or species fully protected by the California Fish and Game Code). Biological monitoring thereafter will occur as needed to fulfil the role of the approved biologist in project permits, potentially including permits from USACE and the RWQCB for effects to waters of the United States and state and CDFW for effects to lakes, streams, and associated riparian habitat. The qualified biologist will have stop work authority to stop project activities to minimize disturbance, injury, or mortality of listed species. If the qualified biologist exercises stop work authority, the appropriate resources agencies will be notified by phone and email within 48 hours.	Retain a qualified biologist to monitor construction work in or adjacent to potential habitat for special-status species. Notify appropriate resources agencies of work stoppage.	biologist, with EBDA oversight	Perform biological monitoring during initial ground-disturbing activities involving use of heavy equipment that could cause noise or vibration disturbance to listed species and as needed based on permit requirements. Notify appropriate resources agencies within 48 hours of work stoppage.	
Impacts 3.3-1, 3.3-5, and 3.3-6, as listed above	**Mitigation Measure 3.3-7: Prevent Special-Status Wildlife Entrapment** To prevent inadvertent entrapment of special-status species in salt marsh and playa habitat during construction, excavated holes or trenches more than 1 foot deep with walls steeper than 30 degrees will be covered at the close of each working day by plywood or similar materials. Alternatively, an additional 4-foot-high vertical barrier, independent of exclusionary fences, will be used to further prevent the inadvertent entrapment of special-status species. If it is not feasible to cover an excavation or provide an additional 4-foot-high vertical barrier independent of exclusionary fences, one or more escape ramps constructed of earth fill or wooden planks will be installed for every 100 feet of trenching with no greater than 3:1 slopes. Before such holes or trenches are filled and when they are covered and uncovered each working day, they will be thoroughly inspected for trapped animals. If at any time a trapped special-status animal is discovered, an USFWS- or CDFW-approved biologist will be contacted (as appropriate), and they or their designee will immediately place escape ramps or other appropriate structures to allow the animal to escape, or USFWS and/or CDFW will be contacted by telephone for guidance. All construction pipes, culverts, or similar structures that are stored at the project site for one or more overnight periods shall be securely capped before storage or inspected by the USFWS- or CDFW-approved biologist before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a special-status species is	Confirm that the mitigation measure is included in the construction contract. Place covers over excavated holes or trenches, install vertical barriers around them, or construct escape ramps. Inspect holes and trenches for trapped wildlife before filling them. Contact an approved biologist to implement measures to allow any trapped wildlife to escape. Cap or inspect construction pipes, culverts, or other structures and allow any special-status wildlife to escape.	Project proponent and qualified biologist, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Implement measures to prevent special-status wildlife entrapment for the duration of construction activities.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	discovered inside a pipe, the individual shall be allowed to leave on its own volition.				
Impacts 3.3-1, 3.3-5, and 3.3-6, as listed above	**Mitigation Measure 3.3-8: Implement Measures to Avoid Impacts to Salt-Marsh Harvest Mouse and Salt-Marsh Wandering Shrew** Because salt-marsh harvest mouse is a fully protected species under the California Fish and Game Code, measures will be implemented to avoid injury or mortality of the species. These measures will also avoid impacts to salt-marsh wandering shrew. A USFWS- and CDFW-approved biologist with previous salt marsh harvest mouse experience will be on-site during construction activities occurring in wetlands. The biologist will document compliance with all project permit conditions and avoidance and conservation measures. The approved biologist or their designee will have the authority to stop project activities if any requirement associated with these measures is not being fulfilled. Prior to the initiation of work each day, the USFWS- and CDFW-approved biologist will thoroughly inspect the work area and adjacent habitat areas to determine if salt-marsh harvest mouse is present. Following confirmation by the USFWS- and CDFW-approved biologist that no salt-marsh harvest mouse is present, tidal wetland vegetation will be removed by hand using only nonmechanized hand tools (i.e., trowel, hoe, rake, and shovel) prior to the initiation of work within these areas. Vegetation will be removed to bare ground or stubble no higher than 1 inch. Vegetation will be removed under the supervision of the USFWS- or CDFW-approved biologist. Unless otherwise instructed by USFWS and CDFW, temporary exclusion fencing will be installed immediately after the hand removal of tidal wetland vegetation (as described above) from the work area. The fence will be made of a heavy plastic sheeting material that does not allow salt-marsh harvest mice to pass through or climb, and the bottom will be buried so that salt-marsh harvest mice cannot crawl under the fence. Fence height will be at least 12 inches higher than the highest adjacent vegetation with a maximum height of 4 feet. A USFWS- and CDFW-approved biologist with previous salt-marsh harvest mouse experience will be on-site during fence installation and will check the fence alignment prior to vegetation clearing and fence installation to ensure no salt-marsh harvest mice are present.	Confirm that the mitigation measure is included in the construction contract. Retain an approved biologist to monitor compliance with permit conditions for salt-marsh harvest mouse and salt-marsh wandering shrew and inspect work areas to determine if the species are present. In areas where the species are present, remove vegetation with nonmechanized hand tools under the supervision of an approved biologist. Install temporary exclusion fencing around areas of tidal wetland vegetation under the supervision of an approved biologist. Conduct daily inspections of exclusion fencing. Follow wildlife and plant avoidance measures in wetland vegetation areas, and implement additional measures identified through project permitting.	Project proponent, construction contractor, and qualified biologist, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Implement measures to avoid impacts on salt-marsh harvest mouse and salt-marsh wandering shrew for the duration of construction activities in wetlands where the species are present.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	Through project permitting (e.g., Clean Water Act 404/401) or CEQA review, if USFWS and CDFW suggest alternative measures that are equally effective (e.g., additional biological monitoring, marsh mats) as vegetation removal and temporary exclusion fencing (described in the previous two paragraphs), the suggested measures would be implemented instead, along with other suggested measures discussed herein. The USFWS- and CDFW- approved biologist will inspect exclusion fencing during daily inspections prior to the initiation of work each day. If exclusion fencing shows signs of damage such that small mammals could enter the work area, work will not continue within 300 feet of the damaged exclusion fencing until the fences are repaired and the site is surveyed by a qualified biologist to ensure that salt-marsh harvest mouse has not entered the work area. Construction access through wetland vegetation will be minimized to avoid the loss of individual harvest mice. If construction access through wetland vegetation is required, construction workers will follow wildlife and plant avoidance measures prescribed in Walking in the Marsh: Methods to Increase Safety and Reduce Impacts to Wildlife/Plants (San Francisco Bay Joint Venture 2017). No work will occur within 50 feet of suitable tidal marsh habitat within 2 hours before and after an extreme high tide event (6.5 feet or higher measured at the Golden Gate Bridge and adjusted to the timing of local high tides) unless salt-marsh harvest mouse-proof exclusion fencing has been installed around the work area. During berm alteration work salt-marsh harvest mouse corridors (i.e., corridors considered to be connected to larger areas of salt-marsh harvest mouse habitat) will be retained on at least one side of berms while construction activities take place.				
Impacts 3.3-1, 3.3-5, and 3.3-6, as listed above	**Mitigation Measure 3.3-9: Conduct Botanical Surveys and Implement Avoidance Measures and Mitigation** Prior to any ground-disturbing activities, a qualified botanist will conduct botanical surveys where there is potential for a special-status plant species to occur and during the appropriate identification period (typically, the blooming period) for plants that have a potential to occur in the project footprint. All habitats potentially suitable for special-status plants will be surveyed following CDFW's *Protocols for Surveying and Evaluating Impacts on Special-Status Native Plant*	Confirm that the mitigation measure is included in the construction contract. Conduct botanical surveys for special-status plant species in accordance with CDFW protocols, and document findings.	Project proponent and qualified biologist, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Conduct botanical surveys during the appropriate identification period before ground-disturbing activities.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	Populations and Natural Communities (CDFW 2018b or most recent version). If special-status plants are not found, the botanist would document the findings in a report to the project files, and no further mitigation would be required. If special-status plants are found, the habitat occupied by special-status plants will be avoided completely, if feasible. This may include establishing a no-disturbance buffer around the plants and demarcation of this buffer by a qualified biologist or botanist using flagging or high-visibility construction fencing. The size of the buffer will be determined by the qualified biologist or botanist and will be large enough to avoid direct or indirect impacts on the special-status plants. If special-status plants are found and cannot be avoided, the applicant will, in consultation with CDFW or USFWS as appropriate depending on the species status, develop and implement a site-specific mitigation program to avoid loss of occupied habitat and minimize loss of individuals. Mitigation measures shall include, at a minimum, preserving and enhancing existing populations, establishing populations through seed collection or transplantation from the site that is to be affected, and/or restoring or creating habitat in sufficient quantities to fully offset the loss of occupied habitat or individuals. Potential mitigation sites could include suitable locations within or outside of the project area, with a preference for on-site mitigation. Habitat and individual plants lost would be mitigated at a minimum 1:1 ratio, considering acreage as well as function and value and as approved by CDFW or USFWS. Success criteria for preserved and compensatory populations would include: ▶ The extent of occupied area and plant density (number of plants per unit area) in compensatory populations would be equal to or greater than the affected occupied habitat. ▶ Compensatory and preserved populations would be self-producing. Populations would be considered self-producing when: ▪ plants reestablish annually for a minimum of 5 years with no human intervention such as supplemental seeding; and ▪ reestablished and preserved habitats contain an occupied area and flower density comparable to existing occupied habitat areas in similar habitat types in the project vicinity.	Establish a no-disturbance buffer around special-status plants and habitat. If special-status plants cannot be avoided, consult with CDFW or USFWS, and develop and implement a site-specific mitigation program.		Establish a no-disturbance buffer before ground-disturbing activities. Consult with CDFW or USFWS, and develop and implement a site-specific mitigation program before project completion.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	If off-site mitigation includes dedication of conservation easements, purchase of mitigation credits, or other off-site conservation measures, the details of these measures will be included in the mitigation plan, including information on responsible parties for long-term management, conservation easement holders, long-term management requirements, success criteria such as those listed above and other details, as appropriate to target the preservation of long-term viable populations.				
Impacts 3.3-1, 3.3-5, and 3.3-6, as listed above; and Impact 3.8-1: Potential to Violate Any Water Quality Standards or Waste Discharge Requirements or Otherwise Substantially Degrade Surface Water or Groundwater Quality during Construction	**Mitigation Measure 3.3-10: Implement Directional Drilling Fluid Containment Measures** Prior to directional drilling activities, containment and cleanup equipment, such as portable pumps, silt fence, and fiber rolls, will be present for use at the staging areas and active construction site. At high-risk boring locations directly adjacent to or under waterbodies or wetlands, damming and flume materials will be pre-staged. During directional drilling activities, construction crews will monitor bentonite flow and returns so that fluid loss can be identified before the material surfaces. Silt fencing or equivalent will be installed between the bore site and any water or wetland. This will prevent the bentonite mixture from entering the water or wetland should a spill occur. If a spill is detected in a water or wetland, drilling will immediately cease, and spill prevention and control measures will immediately be employed. If the mixture flows to the surface of a water, a pump will be used to pump it to a safe location within a BMP. If a release occurs in a water, the water will be immediately dammed and flumed and the bentonite mixture will be contained and removed. The appropriate permitting agencies will be contacted including the San Francisco Bay RWQCB. In addition, drilling mud must not contain any chemicals that are acutely hazardous to aquatic environment, as confirmed by Material Safety Data Sheets.	Confirm that the mitigation measure is included in the construction contract. Maintain containment and cleanup equipment on-site. Monitor fluid loss during directional drilling activities. Install silt fencing between bore sites and any water or wetland. In the event of a spill, implement spill prevention and control measures, and contact the appropriate permitting agencies.	Project proponent, construction contractor, and qualified biologist, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Maintain containment and cleanup equipment on-site before directional drilling activities. Monitor fluid loss during directional drilling activities. Install silt fencing around any water or wetland before directional drilling activities.	
Impacts 3.3-1, 3.3-5, and 3.3-6, as listed above	**Mitigation Measure 3.3-11: Avoid Impacts to Pallid Bat** Measures for avoiding and minimizing impacts to the pallid bat will include the following: ▶ A qualified wildlife biologist will be retained to conduct surveys for roosting bats in potentially suitable roosting habitat (i.e., structures, trees) within the construction area. Surveys will be conducted within 14 days prior to initiation of construction	Confirm that the mitigation measure is included in the construction contract. Retain a qualified wildlife biologist to conduct surveys for roosting bats and roosting habitat.	Project proponent and qualified biologist, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Conduct surveys within 14 days before initiation of construction activities.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	activities. If no active roosts are detected during surveys, then no additional mitigation is required. ▶ If pallid bat roosts are found in any areas that will be directly affected by construction activities during breeding season (April 1 to August 31), a no-disturbance buffer will be established around the roosting location to avoid disturbance or destruction of the roost site until after the breeding season or after a wildlife biologist determines that the pups are fully weaned. The extent of these buffers will be determined by a wildlife biologist in consultation with CDFW and will depend on the level of noise or disturbance, line of site between the roost and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers. These factors will be analyzed and used to make an appropriate decision on buffer distances. ▶ Tree removal where active roosts are present will be conducted only outside of the breeding season, between September 1 and March 31, or after a wildlife biologist determines that the pups have been weaned, typically by late August.	If pallid bat roosts are found in construction areas, establish a no-disturbance buffer, developed in consultation with CDFW. Conduct tree removal where active roosts are present outside of breeding season.		Establish a no-disturbance buffer before initiation of construction activities during the pallid bat breeding season (April 1 to August 31). Conduct tree removal outside of breeding season (between September 1 and March 31).	
Impacts 3.3-1, 3.3-5, and 3.3-6, as listed above	**Mitigation Measure 3.3-12: Implement Avoidance Measures for Monarch Overwintering Colonies and Crotch's Bumble Bee Nest Colonies** The project will implement the following measures to avoid and minimize potential impacts on monarch butterfly overwintering colonies: ▶ To minimize the potential for loss of monarch overwintering colonies, project activities that include vegetation removal within suitable overwintering habitat (e.g., eucalyptus or other large trees) will be conducted from April through September to avoid the overwintering season (October through March), if feasible. If project activities are conducted outside of the overwintering season, no further mitigation will be required. ▶ Within 14 days before the onset of project activities that include vegetation removal between October 1 and March 31, a qualified biologist familiar with monarchs and monarch overwintering habitat will conduct focused surveys for monarch colonies within habitat suitable for the species in the project site and will identify any colonies found within the project site.	Confirm that the mitigation measure is included in the construction contract. Conduct vegetation removal within suitable overwintering habitat for monarch butterfly from April through September. If that is not feasible, retain a qualified biologist to conduct focused surveys for monarch colonies, and flag trees where colonies are present. If removal of an overwintering colony is required, prepare and implement a site-specific management plan. Conduct ground-disturbing work for the MSS brine	Project proponent and qualified biologist, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Conduct vegetation removal within suitable overwintering habitat for monarch butterfly from April through September. Conduct focused surveys for monarch butterfly within 14 days before the onset of vegetation removal in suitable overwintering habitat between October 1 and March 31. Conduct a habitat assessment and focused survey for Crotch's bumble bees prior to the start initial	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	▶ Monarch overwintering colonies that are identified within a project site will be demarcated with flagging or high-visibility construction fencing to prevent removal of the stand of trees containing the overwintering colony and encroachment by heavy machinery, vehicles, or personnel. Removal of the tree or stand of trees that contains the overwintering colony will not occur until the monarchs have left the area, as determined by a qualified biologist. ▶ If modification or removal of a stand that contains an identified overwintering colony is required for a project and cannot be delayed, a site-specific management plan will be prepared and implemented for the stand with the goal of maintaining habitat function for the monarch overwintering colony, following feasible recommendations from *Protecting California's Butterfly Groves Management Guidelines for Monarch Butterfly Overwintering Habitat* (Xerces Society 2017). Examples of management strategies that could be considered to maintain habitat function include: ▪ remove or trim hazard trees; ▪ selectively remove or trim trees to create a heterogeneous habitat that provides access to sunlight and shade for monarchs; ▪ maintain suitable wind protection in the stand; and ▪ replace removed trees with native trees in strategic locations to provide additional wind protection. The project will implement the following measures to avoid and minimize potential impacts on Crotch's bumble bee nest colonies: ▶ Initial ground-disturbing work (e.g., grading, trenching vegetation removal, staging) for the MSS brine transport pipeline outside of the Solar Salt Facility shall take place between August 15 and March 15, if feasible, to avoid impacts on Crotch's bumble bees potentially nesting in this area. No such restriction is necessary for improvements within the Solar Salt Facility owing to the absence of habitat suitable for this species. ▶ If completing initial ground-disturbing work for any portion of the MSS brine transport pipeline (outside of the Solar Salt Facility) between August 15 and March 15 is not feasible, then prior to the	transport pipeline outside the Solar Site Facility from August 15 to March 15 to avoid impacts to Crotch's bumble bee. If that is not feasible, retain a qualified biologist to conduct a habitat assessment and focused survey for Crotch's bumble bee and submit a survey report to CDFW within one month of survey completion. If impacts on Crotch's bumble bee cannot be avoided, implement appropriate avoidance measures and obtain an ITP, if necessary.		ground-disturbing work for the MSS brine transport pipeline, outside the Solar Site Facility, if these activities cannot be completed from August 15 to March 15.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	start of any ground-disturbing activities, a qualified biologist approved by CDFW that is familiar with bumble bees of California and experienced using survey methods for bumble bees shall conduct a habitat assessment and focused survey for Crotch's bumble bee within vegetated portions of the project site due to be constructed within that year's colony active period. The survey shall follow the methods in *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (CDFW 2023) or any subsequent adopted or recommended CDFW guidance. The following measures shall be implemented: ▪ The project proponent, with EBDA oversight, shall submit a survey report to CDFW within one month of survey completion and prior to initial ground-disturbing work, and shall notify CDFW within 24 hours if Crotch's bumble bees are detected. ▪ If Crotch's bumble bees are detected during the focused survey, appropriate avoidance measures shall be implemented as determined by a qualified biologist. Avoidance measures may include protective buffers that shall be implemented around active nesting colonies until these sites are no longer active. ▪ If Crotch's bumble bee is still a candidate or becomes a listed species under CESA at the time of initial ground-disturbing work for the MSS brine transport pipeline, impacts on Crotch's bumble bee cannot be avoided, and take may occur during project activities, the project proponent, with EBDA oversight, shall obtain an ITP from CDFW and shall implement all avoidance measures included in the ITP including compensation for loss of nest colonies.				
Impacts 3.3-2, 3.3-3, 3.3-5, 3.3-6, and 3.8-1, as listed above	**Mitigation Measure 3.3-13: Mitigate for Unavoidable Impacts to Wetlands and Other Waters of the United States/State** Before initial ground disturbance or vegetation removal activities begin within areas that may contain wetlands and other waters, the following measures, which are intended to avoid and minimize impacts on state or federally protected wetlands, shall be implemented. A qualified biologist will delineate the boundaries of state or federally protected wetlands within the project site according to methods established in the USACE wetlands delineation manual (Environmental	Confirm that the mitigation measure is included in the construction contract. Retain a qualified biologist to delineate wetlands within the project site. If wetlands cannot be avoided, retain a qualified biologist to establish a buffer	Project proponent and qualified biologist, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Delineate wetlands, establish buffers, notify agencies with jurisdiction, and obtain applicable permits and authorizations before initial ground	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	Laboratory 1987) and the Western Mountains, Valleys, and Coast regional supplement (USACE 2010). The qualified biologist will also delineate the boundaries of wetlands that may not meet the definition of waters of the United States, but would qualify as waters of the state, according to the state wetland definition and procedures (SWRCB 2021). If state or federally protected wetlands are determined to be present within a work area and can be avoided, the qualified biologist will establish a buffer around wetlands and mark the buffer boundary with high-visibility flagging, fencing, stakes, or clear, existing landscape demarcations (e.g., edge of a roadway). The buffer will be a minimum width of 25 feet but may be larger if deemed necessary. The appropriate size and shape of the buffer zone will be determined in coordination with the qualified biologist and will depend on the type of wetland present, the timing of project activities (e.g., wet or dry time of year), whether any special-status species may occupy the wetland and the species' vulnerability to the project activities, environmental conditions and terrain, and the project activity being implemented. Project activities (e.g., ground disturbance, vegetation removal, staging) will be prohibited within the established buffer. A qualified biologist will periodically inspect the materials demarcating the buffer to confirm that they are intact and visible, and wetland impacts are being avoided. If it is determined that fill of waters of the United States would result from project implementation, authorization for such fill will be secured from USACE through the Section 404 permitting process. Any waters of the United States that would be affected by the project will be replaced or restored on a no-net-loss basis in accordance with USACE mitigation guidelines. In association with the Section 404 permit (if applicable) and prior to the issuance of any grading permit, Section 401 Water Quality Certification from the San Francisco RWQCB will be obtained. If it is determined that disturbance or fill of state protected wetlands, or any other waters of the state cannot be avoided, the implementing party will notify CDFW, the San Francisco RWQCB, and BCDC before commencing any activity within the bed, bank, or riparian corridor of any waterway and will notify the RWQCB before commencing any activity within a state wetland. If project activities trigger the need for a Streambed Alteration Agreement, the proponent will obtain an	around the wetland, and conduct periodic monitoring. If the project would result in fill of jurisdictional waters, notify the appropriate agency with jurisdiction, and obtain applicable permits and authorizations for such activities. If permanent impacts on jurisdictional waters occur, mitigate through on-site restoration, rehabilitation, and/or replacement (purchase of mitigation credits).		disturbance or vegetation removal activities within areas that may contain wetlands and other waters. Conduct periodic monitoring for the duration of construction activities in areas that may contain wetlands and other waters. Implement restoration, rehabilitation, and/or replacement of jurisdictional waters at an on-site location acceptable to the agencies with jurisdiction before project completion or purchase mitigation credits at an approved mitigation bank.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	agreement from CDFW before the activity commences. Project construction activities will be implemented in accordance with the agreement, including implementing reasonable measures in the agreement necessary to protect the fish and wildlife resources, when working within the bed or bank of waterways that function as a fish or wildlife resource or in riparian habitats associated with those waterways. The applicant will apply for a permit from the San Francisco RWQCB for any activity that may result in discharges of dredged or fill material to waters of the state. The application will be completed in accordance with state procedures (SWRCB 2021). If it is determined that fill in any water, land, or structure within BCDC jurisdiction would result from project implementation, authorization for such fill will be secured from BCDC through its permitting process before the activity commences. If it is determined that fill in any water, land, or structure within BCDC jurisdiction would result from project implementation, authorization for such fill will be secured from BCDC through its permitting process before the activity commences. State or federally protected waters and wetlands disturbed during project activities will be restored to pre-disturbance conditions or better. Restoration will include restoring pre-disturbance contours, hydrology, and vegetation. Temporary impacts to wetlands will require preparation of a restoration plan which details how wetlands will be restored and will require implementation of a monitoring plan to ensure the restoration is successful. Permanent impacts to wetlands and other waters of the United States will be replaced in accordance with USACE regulations to achieve "no net loss" of area or function of waters of the United States, including wetlands. Permanent impacts to waters of the state will be compensated in accordance with the state procedures, such that the project would not result in a net loss of overall abundance, diversity, and condition of aquatic resources within the affected watershed based on a watershed assessment using an assessment method approved by the San Francisco RWQCB or State Water Resources Control Board. To the degree feasible and acceptable to the agencies with jurisdiction, restoration, rehabilitation, and/or replacement of jurisdictional waters for permanent impacts will be mitigated in-kind and completed on-site at a location agreeable to USACE, the RWQCB, and BCDC in accordance with USACE, San Francisco RWQCB, and				

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	BCDC mitigation guidelines. Any permanent impacts that cannot be mitigated through on-site restoration, rehabilitation, and/or replacement will be compensated through purchase of mitigation credits at a USACE/San Francisco RWQCB/BCDC-approved mitigation bank.				
Impacts 3.3-1, 3.3-2, 3.3-5, and 3.3-6, as listed above	**Mitigation Measure 3.3-14: Compensate for Unavoidable Loss of Sensitive Natural Communities** The following measures shall be implemented before implementation of project activities: ▶ A qualified botanist will perform a protocol-level survey of the project site for sensitive natural communities and sensitive habitats following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (CDFW 2018b). Sensitive natural communities will be identified using the best available and current data, including keying them out using the most current edition of *A Manual of California Vegetation* (including updated natural communities data at http://vegetation.cnps.org/), or referring to relevant reports (e.g., reports found on the VegCAMP website). ▶ Before implementation of project activities, development setbacks will be established around all sensitive habitats identified during surveys, and these setbacks will be flagged or fenced with brightly visible construction flagging and/or fencing under the direction of the qualified biologist and no project activities (e.g., vegetation removal (including herbicide application), ground disturbance, staging) will occur within these areas. Setback distances will be dependent on various factors (e.g., presence of special-status wildlife or plant species) and determined by a qualified biologist in consultation with the appropriate agency (e.g., CDFW), but will generally be a minimum of 50 feet. Foot traffic by personnel will also be limited in these areas to prevent the introduction of invasive or weedy species or inadvertent trampling of vegetation. Periodic inspections during construction will be conducted by the monitoring biologist to maintain the integrity of exclusion fencing/flagging throughout the period of construction involving ground disturbance.	Confirm that the mitigation measure is included in the construction contract. Perform a protocol-level survey for sensitive natural communities and sensitive habitats, establish development setbacks around sensitive habitats, and retain a monitoring biologist to conduct periodic inspections. If sensitive natural communities cannot be avoided, prepare and implement a Compensatory Mitigation Plan.	Project proponent and qualified biologist, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Perform protocol-level surveys before implementation of project activities. Prepare and implement Compensatory Mitigation Plan before project completion.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	If sensitive natural communities are determined to be present within a work area and these habitats cannot be avoided, the following measures shall be implemented: ▶ Compensate for unavoidable loss of any sensitive natural community habitat function such that no net loss of habitat function occurs by: ▪ restoring sensitive natural community habitat function within the project site (e.g., using locally collected seed or cuttings); ▪ restoring degraded sensitive natural communities outside of the project site at a sufficient ratio to offset the loss of habitat function (at least 1:1); or ▪ preserving existing sensitive natural communities of that provide similar habitat function to the sensitive natural community affected through a conservation easement at a sufficient ratio to offset the loss of habitat function (at least 1:1). ▶ Prepare and implement a Compensatory Mitigation Plan that includes the following: ▪ For preserving existing habitat outside of the project site in perpetuity, the Compensatory Mitigation Plan will include a summary of the proposed compensation lands (e.g., the number and type of credits, location of mitigation bank or easement), parties responsible for the long-term management of the land, and the legal and funding mechanism for long-term conservation (e.g., holder of conservation easement or fee title). ▪ For restoring or enhancing habitat within the project site or outside of the project site, the Compensatory Mitigation Plan will include a description of the proposed habitat improvements, success criteria that demonstrate the performance standard of maintained habitat function has been met, legal and funding mechanisms, and parties responsible for long-term management and monitoring of the restored or enhanced habitat. ▪ Success criteria required to maintain habitat function for preserved and compensatory populations will include, but not be limited to:				

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	• The extent of occupied area and density of plants associated with the sensitive natural community (number of plants per unit area) in compensatory habitats will be equal to or greater than the affected occupied habitat. • Compensatory and preserved sensitive natural communities will be self-producing. Populations will be considered self-producing when: - Plants associated with sensitive natural communities reestablish annually for a minimum of 5 years with no human intervention such as supplemental seeding; and - Reestablished and preserved habitats contain an occupied area and density comparable to existing occupied habitat areas in similar habitat types in the project vicinity.				
Impacts 3.3-1, 3.3-2, 3.3-5, and 3.3-6, as listed above	**Mitigation Measure 3.3-15: Mitigate for Unavoidable Riparian Habitat Removal** Prior to implementing any project activity that may result in changes to the natural flow or bed, channel, or bank of any river, stream, or lake supporting fish or wildlife resources, a Lake and Streambed Alteration Notification will be submitted to CDFW, pursuant to Section 1602 of the California Fish and Game Code. If project activities trigger the need for a Streambed Alteration Agreement, the project proponent will obtain such agreement from CDFW and will conduct construction activities in accordance with the agreement, including implementing reasonable measures in the agreement necessary to protect fish and wildlife resources, including riparian habitat. The project proponent will mitigate any removal of any riparian habitat through on-site, in-kind restoration, rehabilitation, and/or replacement of riparian trees and other riparian vegetation. If the loss of riparian habitat cannot be fully mitigated on-site, additional compensation will be provided through purchase of credits from a CDFW-approved mitigation bank.	Confirm that the mitigation measure is included in the construction contract. If project activities may result in changes to the natural flow or bed, channel, or bank of any river, stream, or lake supporting fish or wildlife resources, submit a Lake and Streambed Alteration Notification to CDFW. If determined to be necessary, obtain a Streambed Alteration Agreement from CDFW. Mitigate the removal of any riparian habitat.	Project proponent and qualified biologist, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Submit a Lake and Streambed Alteration Notification to CDFW before implementing any project activity that may result in changes to the natural flow or bed, channel, or bank of any river, stream, or lake supporting fish or wildlife resources. Mitigate the removal of any riparian habitat before project completion.	
Impacts 3.3-4 through 3.3-6, as listed above	**Mitigation Measure 3.3-16: Retain Wildlife Nursery Habitat and Implement Buffers to Avoid Wildlife Nursey Sites** If wildlife nursery sites are discovered within or adjacent to the project site during surveys required under Mitigation Measures 3.3-3, 3.3-4,	Confirm that the mitigation measure is included in the construction contract. If wildlife nursery sites are discovered during surveys,	Project proponent and qualified biologist, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	3.3-5, 3.3-6, 3.3-8, 3.3-9, 3.3-11, and 3.3-12, the following measures will be implemented before commencement of project activities: ▶ A qualified biologist will identify the important habitat features of the wildlife nursery and, prior to commencement of project activities (e.g., ground disturbance, vegetation removal, staging), will mark these features for avoidance and retention during project implementation to maintain the function of the nursery habitat. ▶ A no-disturbance buffer will be established around the nursery site if project activities are required while the nursery site is active/occupied. The appropriate size and shape of the buffer will be determined by a qualified biologist, based on potential effects of project-related habitat disturbance, noise, visual disturbance, and other factors. No project activity will commence within the buffer area until a qualified biologist confirms that the nursery site is no longer active/occupied. Monitoring of the effectiveness of the no-disturbance buffer around the nursery site by a qualified biologist during and after project activities will be required. If project activities cause agitated behavior of the individual(s), the buffer distance will be increased, or project activities modified until the agitated behavior stops. The qualified biologist will have the authority to stop any project activities that could result in potential adverse effects to wildlife nursery sites.	retain a qualified biologist to mark these features for avoidance, establish no-disturbance buffers around active/occupied nursery sites, and monitor the effectiveness of the buffers.		Implement measures to retain wildlife nursery habitat, and implement buffers to avoid wildlife nursery sites before the commencement of project activities and throughout the duration of construction activities near wildlife nursery sites.	
Impact 3.3-5 and 3.3-6; as listed above	**Mitigation Measure 3.3-17: Comply with City and County Tree Ordinances** If tree removal is required for the project, the project will apply for any permits required by the Cities of Fremont, Union City, Newark, and Hayward, and Alameda County in accordance with applicable tree removal ordinances and comply with all regulations detailed in those permits and ordinances. This may include like-size and like-kind replacement of removed or damaged trees, as specified in the applicable ordinances.	Confirm that the mitigation measure is included in the construction contract. As required, obtain and comply with tree removal permits.	Project proponent and construction contractor, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Obtain permits before tree removal, as required.	
Cultural and Tribal Cultural Resources					
Impact 3.4-2: Potential to Cause a Substantial Adverse Change in the Significance	**Mitigation Measure 3.4-2a: Develop and Implement a Worker Environmental Awareness Program**	Confirm that the mitigation measure is included in the construction contract.	Project proponent, qualified	Confirm that the mitigation measure is included in the	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
of Unique Archaeological Resources; and Impact 3.4-3: Potential to Cause a Substantial Adverse Change in the Significance of a Tribal Cultural Resource	Before the start of any ground disturbing construction activities, a qualified professional archaeologist (one who meets the Secretary of the Interior's Professional Qualification Standards for archaeology) shall develop a construction worker awareness brochure for all construction personnel. The brochure will be developed in coordination with representatives from the following Native American tribes culturally affiliated with the project area: Confederated Villages of Lisjan and Northern Valley Yokut/Ohlone/Patwin. The topics to be addressed in the Worker Environmental Awareness Program will include, at a minimum: ▶ types of archaeological and tribal cultural resources expected in the project area; ▶ what to do if a worker encounters a possible resource; ▶ what to do if a worker encounters bones or possible bones; and ▶ penalties for removing or intentionally disturbing archaeological and tribal cultural resources, such as those identified in the Archeological Resources Protection Act.	Develop and implement a worker environmental awareness program.	archaeologist (one who meets the Secretary of the Interior's Professional Qualification Standards for archaeology) and tribal representative, and construction contractor, with EBDA oversight	construction contract before the contract is executed. Develop a construction worker awareness brochure before the start of ground-disturbing construction activities. Implement the worker environmental awareness program for the duration of ground-disturbing activities.	
Impact 3.4-2 and 3.4-3, as listed above	**Mitigation Measure 3.4-2b: Halt Ground-Disturbing Activity upon Discovery of Subsurface Archaeological Features** If any precontact or historic-era subsurface archaeological features or deposits (e.g., ceramic shard, trash scatters), including locally darkened soil ("midden"), which may conceal cultural deposits, are discovered during construction, all ground-disturbing activity within 100 feet of the resources shall be halted, and a qualified professional archaeologist (one who meets the Secretary of the Interior's Professional Qualification Standards for archaeology) shall be retained to assess the significance of the find. If the qualified archaeologist determines the archaeological material to be Native American in nature, Cargill shall be required by EBDA to contact the following Native American tribes culturally affiliated with the project area: Confederated Villages of Lisjan and Northern Valley Yokut/Ohlone/Patwin. A tribal representative from these tribes may make recommendations for further evaluation and treatment as necessary and provide input on the preferred treatment of the find. If the find is determined to be significant by the archaeologist or the tribal representative (i.e., because it is determined to constitute a unique archaeological resource or a tribal cultural resource, as	Confirm that the mitigation measure is included in the construction contract. If subsurface archaeological features are discovered, halt ground-disturbing activities within 100 feet of the find, and retain a professional archaeologist to assess the significance of the find. If the resource is Native American in nature, contact the appropriate tribe, and implement the recommended procedures. Coordinate with CSLC regarding the disposition of archaeological, historical, and paleontological resources	Project proponent, qualified archaeologist and/or tribal representative, and construction contractor, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Implement appropriate procedures in the event of a discovery during ground-disturbing activities. Coordinate with the appropriate Native American tribe upon discovery of any archaeological material that is Native American in nature. Coordinate with CSLC upon the discovery of any archaeological, historical, and paleontological	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	appropriate), the archaeologist and tribal representative, as appropriate, shall develop, and Cargill shall be required by EBDA to implement, appropriate procedures to protect the integrity of the resource and ensure that no additional resources are affected. Procedures may include but would not necessarily be limited to preservation in place (which shall be the preferred manner of mitigating impacts on archaeological and tribal sites), archival research, subsurface testing, or contiguous block unit excavation and data recovery (when it is the only feasible mitigation, and pursuant to a data recovery plan). No work at the discovery location shall resume until all necessary investigation and evaluation of the resource has been satisfied. The final disposition of any archaeological, historical, or paleontological resources recovered on state land under the jurisdiction of the California State Lands Commission (CSLC) shall also be approved by the CSLC.	recovered on land within CSLC jurisdiction.		resources on land within CSLC jurisdiction.	
Impact 3.4-3, as listed above	**Mitigation Measure 3.4-3: Protect Unidentified Tribal Cultural Resources** EBDA will require Cargill to invite a tribal monitor/consultant who is approved by one or both of the following Native American tribes culturally affiliated with the project area: Confederated Villages of Lisjan and Northern Valley Yokut/Ohlone/Patwin, to monitor ground-disturbing activities that are associated with construction of the MSS brine transport pipeline and involve grading, tree removal, boring, excavation, drilling, or trenching in areas with native soils that will occur within 100 feet of a waterway or a known tribal cultural site. Areas of these anticipated ground-disturbing activities are shown in purple in Figure 3.4-1; areas with trenching/disturbance at man-made berms are not anticipated to be of interest. Before construction begins, Cargill shall coordinate with the representatives of the culturally affiliated tribes to determine which tribe will be contacted to provide the tribal monitor/consultant for each area of the project identified in Figure 3.4-1. Cargill shall contact the appropriate tribal representative by email and phone a minimum of 3 days before beginning ground-disturbing activities in the areas identified on Figure 3.4-1, and the tribal representative or their tribal monitor/consultant shall confirm attendance at least 24 hours before ground-disturbing activities are scheduled to begin. If confirmation is not provided, ground-disturbing activities may proceed without the	Confirm that the mitigation measure is included in the construction contract. Retain an approved tribal monitor/consultant to observe ground-disturbing activities within specific areas, and maintain daily monitoring logs.	Project proponent, construction contractor, and approved tribal monitor/consultant, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Contact tribal representatives at least 3 days before beginning ground-disturbing activities, and confirm at least 24 hours before ground-disturbing activities that the representative will be present. As-needed, conduct on-site monitoring during ground-disturbing activities.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	presence of a tribal monitor/consultant. The tribal monitor/consultant shall complete daily monitoring logs that describe each day's activities, including construction activities, locations and type of soil disturbed, and any cultural materials identified. The monitoring logs shall be emailed to the tribal representatives for both the Confederated Villages of Lisjan and Northern Valley Yokut/Ohlone/Patwin tribes, as well as Cargill and EBDA, on a weekly basis. The on-site monitoring shall end when the ground-disturbing construction activities in native soils are completed or when the tribal monitor/consultant has indicated that the site has a low potential for affecting tribal cultural resources.				
Hazards and Hazardous Materials					
Impact 3.7-4: Potential to Result in or Create a Significant Hazard to the Public or the Environment Due to Being Located on a Site Which Is Included on a List of Hazardous Materials Sites Compiled Pursuant to Government Code Section 65962.5	**Mitigation Measure 3.7-4a: Prepare a Phase I ESA for the Project** Before the start of earthmoving activities, Cargill will hire a licensed environmental professional to prepare a Phase I ESA in accordance with the ASTM International E-1527-05 standard. All recommendations included in the Phase I ESA shall be implemented. If the Phase I ESA indicates the presence or likely presence of contamination, a Phase II ESA shall be required (see Mitigation Measure 3.7-4b).	Confirm that the mitigation measure is included in the construction contract. Prepare a Phase I ESA, and implement all recommendations.	Project proponent, licensed environmental professional, and construction contractor, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Prepare a Phase I ESA, and implement all recommendations before the start of earthmoving activities.	
Impact 3.7-4, as listed above	**Mitigation Measure 3.7-4b: Prepare a Phase II ESA in the Ground Disturbance Areas in Locations Where Contamination May Be Present** If the Phase I ESA indicates the presence or likely presence of contamination in areas proposed for ground disturbance, Cargill will hire a licensed environmental professional to prepare a Phase II ESA for these areas before the start of earthmoving activities. The Phase II study will assess the potential for human health and environmental hazards related to potential contact with existing environmental contamination of the surface and subsurface soil and groundwater in the areas where ground disturbance and excavation associated with the project would occur and soil adjacent to SR 84 and SR 92, where horizontal directional drilling is planned. The Phase II assessment will comply with the ASTM International E1903-19 standard and include soil and groundwater sampling and	Confirm that the mitigation measure is included in the construction contract. If necessary, prepare a Phase II ESA, implement all recommendations, and provide results to the construction contractor. If applicable, submit a work plan for soil and groundwater sampling to ACWD.	Project proponent, licensed environmental professional, and construction contractor, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Before the start of earthmoving activities. prepare a Phase II ESA, and implement all recommendations and submit work plan for soil and groundwater sampling to ACWD.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	laboratory analysis sufficient to identify the types of chemicals and their respective concentrations. The work plan for any soil and groundwater sampling that would occur in areas under the jurisdiction of ACWD as part of the Phase II assessment will be submitted to ACWD for review and approval in accordance with ACWD Ordinance No. 2010-01. If the laboratory analysis determines that contaminants are present at concentrations below RWQCB threshold levels, the Phase II assessment will present such results, and no further analysis or mitigation will be necessary. If the laboratory analysis determines that contaminants are found at levels that exceed RWQCB threshold levels, the Phase II assessment will examine and discuss all potential exposure pathways for the locations where project-related excavation could encounter hazardous materials, including: ▶ dermal—physical contact with contaminated soil and groundwater during construction; ▶ inhalation—dust generated by construction activities; ▶ groundwater—potential for groundwater generated by construction dewatering to cause migration of a contaminant plume; and ▶ surface water—potential for overland flow of contaminated groundwater generated during construction dewatering to contaminate surface waters. The Phase II assessment will evaluate potential hazards to both construction workers and the environment and will make recommendations governing project excavation, staging, soil reuse or disposal, and construction dewatering requirements. The results from the Phase II assessment will be provided to project contractors so that recommendations from the Phase II assessment regarding excavation, staging, soil reuse or disposal, and construction dewatering can be incorporated into contractor specifications in accordance with Mitigation Measure 3.7-4d and to inform preparation of a site-specific health and safety plan (HASP), in accordance with Mitigation Measure 3.7-4e. If it is determined through the Phase II assessment that in some areas along the pipeline alignment, groundwater dewatering likely would cause plumes of contaminated water in the vicinity to migrate in the direction of the dewatering				

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	activity, contractor specifications will state that shoring rather than dewatering will be used in these areas.				
Impact 3.7-4, as listed above	**Mitigation Measure 3.7-4c: Coordinate with Regulatory Agencies and Implement Appropriate Remedies** If the results of the Phase II assessment indicate that any contaminants are present at a level that exceeds the associated RWQCB or DTSC threshold level, Cargill will notify the appropriate city, the appropriate CUPA, ACWD, and the RWQCB or DTSC, as appropriate. Coordination will occur with the ACWD, and RWQCB or DTSC, as appropriate, regarding the necessity for and types of protective measures required during project-related excavation activities and to ensure that project activities do not interfere with ongoing remedial actions by other entities. Such protective measures could include marking and avoiding existing groundwater monitoring wells, employing shoring and avoiding dewatering activities, installing temporary soil trench plugs, containing contaminated groundwater in Baker Tanks and treating the water before discharge, monitoring groundwater, and documenting backfill quality. As required by the regulatory agencies, reports documenting the implementation of appropriate protective measures, including any required groundwater monitoring, will be prepared and submitted during the course of construction activities.	Confirm that the mitigation measure is included in the construction contract. If necessary, coordinate with regulatory agencies regarding contamination and protective measures, and submit any required documentation.	Project proponent, licensed environmental professional, and construction contractor, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Coordinate with regulatory agencies, and submit required documentation before project-related excavation activities. Implement protective measures for the duration of project-related excavation activities.	
Impact 3.7-4, as listed above	**Mitigation Measure 3.7-4d: Incorporate Standards for Proper Excavation and Staging Activities, for Handling, Transport, and Disposal of Excavated Soils, and for Construction-Related Dewatering into the Project's Construction Specifications** Specifications and procedures to be followed by the contractor for proper excavation and staging activities, for the handling, transport, and disposal of excavated soils, and for construction-related dewatering in affected area(s), which will be based on the results of the Phase II assessment completed under Mitigation Measure 3.7-4b, will be incorporated into the construction specifications. These specifications and procedures will be consistent with federal and state requirements, including RCRA, CERCLA, the federal hazardous materials transportation law, the Clean Water Act, the Occupational Safety and Health Act, and Title 22, Division 4.5 of the CCR. The following provisions will be included in the project's construction specifications:	Confirm that the mitigation measure is included in the construction contract. If necessary, follow specifications and procedures related to excavation, staging, and dewatering: ▶ Train construction workers in appropriate response if contaminants are encountered. ▶ Remove and transport hazardous soils and materials in accordance with regulatory requirements and	Project proponent, licensed engineering contractor, and construction contractor, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Follow specifications and procedures related to excavation; staging; handling, transport, and disposal of excavated soils; and dewatering for the duration of project-related excavation activities.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	▶ Construction workers in the affected area(s) who will be involved with ground disturbance will be trained in Hazardous Waste Operations and Emergency Response if the types of contaminants and their concentrations warrant this training based on the results of the Phase II ESA completed under Mitigation Measure 3.7-4b. ▶ Soil and materials removal from the affected area(s) will be performed by a licensed engineering contractor with a Class A license and hazardous substance removal certification. A California-licensed engineer will provide field oversight on behalf of Cargill and will document the origin and destination of all removed materials. If necessary, removed materials will be stockpiled temporarily and covered with plastic sheeting, pending relocation, segregation, or off-site hauling. To protect groundwater and surface water quality, contaminated soils will not be stored on-site during the winter rainy season (i.e., November through April). ▶ If excess materials from the affected area(s) are hauled off-site, waste profiling of the material will be completed and documented. Materials classified as nonhazardous waste will be transported under a bill of lading. Materials classified as non-RCRA hazardous waste will be transported under a hazardous waste manifest. All materials will be disposed of at an appropriately licensed landfill or facility. ▶ Trucking operations will comply with Caltrans requirements and any other applicable regulations, and all trucks will be licensed and permitted to carry the appropriate waste classification. The tracking of dirt by trucks leaving the project site will be minimized by cleaning the wheels on exit and by cleaning the loading zone and exit area as needed. ▶ If contaminated materials require dewatering before being hauled off-site, or if excavation would encounter shallow groundwater in the affected area(s), a dewatering plan will be prepared, specifying methods of collecting, transporting, treating, and discharging all water produced by dewatering, and demonstrating compliance with RWQCB requirements and permits. The project proponent will also coordinate with ACWD on the development of the dewatering plan and submit it to	prepare required documentation. ▶ If contaminated groundwater is encountered, prepare dewatering plan in accordance with regulatory requirements.			

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	ACWD for review and approval before commencing dewatering activities in areas under the jurisdiction of ACWD.				
Impact 3.7-4, as listed above	**Mitigation Measure 3.7-4e: Prepare and Implement a Site-Specific Health and Safety Plan** To protect the health of construction workers and the environment, a site-specific HASP will be prepared as follows: ▶ The HASP will be prepared in accordance with state and federal OSHA regulations (29 CFR 1910.120) and approved by a certified industrial hygienist. Copies of the HASP will be made available to construction workers for review during their orientation training and/or during regular health and safety meetings. The HASP will identify potential hazards (including groundwater or stained or odiferous soils at any location where earthmoving activities would occur), chemicals of concern (if any have been determined), personal protective equipment and devices, decontamination procedures, the need for personal or area monitoring, and emergency response procedures. ▶ The HASP will state that if stained or odiferous soil or groundwater is discovered during project-related construction activities, Cargill will retain a licensed environmental professional to conduct a Phase II ESA that includes appropriate soil and/or groundwater analysis. Recommendations contained in the Phase II ESA to address any contamination that is found will be implemented before continuing with ground-disturbing activities in these areas. ▶ The HASP will also require notification of the appropriate federal, state, and local agencies if evidence is found of previously undiscovered soil or groundwater contamination (e.g., stained soil or odorous groundwater) or if previously undiscovered underground storage tanks are encountered during construction activities. Any contaminated areas will be remediated in accordance with recommendations made by the RWQCB, DTSC, the local CUPA, and/or other appropriate federal, state, or local regulatory agencies.	Confirm that the mitigation measure is included in the construction contract. Prepare and implement a site-specific HASP.	Project proponent, licensed environmental professional, and construction contractor, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Prepare a site-specific HASP before construction activities, and implement the plan for the duration of construction activities.	
Impact 3.7-4, as listed above	**Mitigation Measure 3.7-4f: Locate and Avoid Underground Utilities in Areas Where Excavation Is Proposed, and Prepare a Response Plan to Be Implemented If Accidental Damage Occurs**	Confirm that the mitigation measure is included in the construction contract.	Project proponent and construction	Confirm that the mitigation measure is included in the construction contract before the contract is executed.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	Cargill will implement the following measures before construction begins, to avoid and minimize potential damage to utilities that could result in hazardous materials incidents: ▶ Before the start of construction activities, verify through field surveys and the services of Underground Service Alert the locations of any utilities that may be buried at the project site in the areas where development is proposed (e.g., high-pressure natural gas, fuel, stormwater, sewer, water, electrical, or communication). Any buried utility lines will be clearly marked in the field. ▶ Inform all construction personnel of the location of the utility lines during safety briefings throughout the period when construction is occurring. The locations of the utility lines will be clearly identified on construction drawings and posted in the construction superintendent's trailer. ▶ Prepare a response plan that identifies chain-of-command rules for notification of authorities and appropriate actions and responsibilities regarding the safety of the public and workers. A component of the response plan will include worker education training in response to such situations. The plan will include telephone numbers for emergency response providers, as well as the location of the nearest hospital. This information also will be posted in the construction superintendent's trailer on the job site during construction.	Locate and avoid underground utilities. Prepare a response plan to be implemented if accidental damage occurs.	contractor, with EBDA oversight	Locate underground utilities before the start of construction activities, and avoid existing buried lines for the duration of construction. Prepare a response plan before the start of construction activities to be implemented if accidental damage occurs.	
Impact 3.7-4, as listed above	**Mitigation Measure 3.7-4g: Safely Remove, Handle, and Dispose of Pavement Containing Yellow Paint** The construction contractor will follow Caltrans Standard Specifications (Caltrans 2018) for removal of pavement containing yellow pavement markings. Yellow marking residue will be handled, removed, and disposed of in accordance with state and federal regulations related to lead waste.	Confirm that the mitigation measure is included in the construction contract. Follow Caltrans Standard Specifications for removal of yellow pavement markings.	Project proponent and construction contractor, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Follow Caltrans Standard Specifications during the removal of yellow pavement markings.	
Hydrology and Water Quality					
Impact 3.8-3: Potential to Substantially Decrease Groundwater Supplies or	**Mitigation Measure 3.8-2: Minimize Groundwater Loss Due to Dewatering during Construction of the MSS Brine Transport Pipeline**	Confirm that the mitigation measure is included in the	Project proponent and construction	Confirm that the mitigation measure is included in the	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
Interfere Substantially with Groundwater Recharge Such That the Project May Impede Sustainable Groundwater Management of the Basin; and Impact 3.8-6: Potential to Conflict with or Obstruct Implementation of a Water Quality Control Plan or Sustainable Groundwater Management Plan	To minimize the loss of groundwater due to dewatering during construction of the pipeline, compliance with one of the following measures is required: ▶ Where groundwater levels are high and trench or access pit installation would require significant dewatering, EBDA and Cargill shall require the contractor to pump groundwater to settling tanks and discharge clean water back to a nearby well, if permitted, or use the water for dust control in the vicinity of where the dewatering occurred. ▶ If discharge of groundwater to injection wells is necessary during construction activities, EBDA shall require Cargill or its contractor to obtain the necessary permits and approvals from ACWD and the San Francisco RWQCB, as appropriate before commencing such activities. If groundwater injection into the Niles Cone Subbasin is foreseeable, EBDA shall require Cargill or its contractor to notify and coordinate with ACWD and comply with the applicable requirements of ACWD Ordinance No. 2010-01, including water quality testing requirements. In addition, EBDA shall require Cargill or its contractor to fulfill applicable reporting requirements under the EPA Underground Injection Control Program. ▶ If discharge to a nearby well or using dewatering water for dust control in the vicinity is not feasible, then EBDA shall require Cargill to pay the appropriate replenishment assessment fee to the applicable GSA to compensate for loss of groundwater from the basin.	construction contract before the contract is executed. If significant dewatering is required, discharge water back to a nearby well, if permitted; reuse the water for dust control; or pay appropriate replenishment assessment fee. If injection wells are needed, obtain necessary permits and approvals from ACWD and the San Francisco RWQCB, and fulfill applicable testing and reporting requirements.	contractor, with EBDA oversight	construction contract before the contract is executed. Reuse or inject groundwater in accordance with permit requirements for the duration of dewatering activities, or pay the replenishment assessment fee before project initiation. Obtain necessary permits and approvals, and fulfill applicable testing and reporting requirements before the initiation of dewatering activities.	
Impact 3.8-5: Potential to Risk Release of Pollutants Due to Project Inundation from Flood Hazard, Dam Failure, Tsunami, Seiche, or Sea Level Rise	**Mitigation Measure 3.8-5: Locate Staging Areas Outside of the Flood Zone or Install a Protective Barrier around Potential Sources of Pollutants Stored within the Staging Area** Prioritize staging of materials outside of the FEMA 100 year flood zone, tsunami inundation zone, or dam failure inundation zones. If construction related stockpiles of soil, oil, fuel, lubricants, or other chemicals must be stored at any staging area that is located in a flood zone, then prior to construction, the construction contractor shall install a temporary protective barrier around the materials sufficient to provide protection from flood inundation and maintain the barrier throughout the construction period.	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Avoid staging areas within the FEMA 100 year flood zone, tsunami inundation zone, and dam failure zones to the extent feasible. If staging of construction materials in one or more of these zones is necessary,	Project proponent, licensed engineering contractor, and construction contractor, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Install temporary protective barrier around materials in staging areas before the start of construction and maintain for the duration of construction staging activities.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
		install a temporary protective barrier around the materials and maintain for the duration of construction staging activities.			
Noise and Vibration					
Impact 3.9-1: Potential to Expose Existing Receptors to Short-Term Construction Noise	**Mitigation Measure 3.9-1: Implement Construction Noise Reduction Measures** The following construction mitigation measure shall be implemented by the construction contractor for the entire construction phase of the project and within each jurisdiction that construction passes through: ▶ The construction contractor shall use noise-reducing operation measures, techniques, best practices, and equipment to achieve maximum practicable noise reduction (generally considered to be 10 dBA for construction noise) with the goal of achieving noise levels that do not exceed the applicable thresholds for each jurisdiction. This requirement shall be enforced through its inclusion on the construction bid specifications. The bid specifications shall require that the construction contractor provide an equipment inventory list for all equipment in the fleet with greater than 50-horsepower engines that identifies (at a minimum) make, model, and horsepower of equipment; operating noise levels at 50 feet; available noise control devices that are installed on each piece of equipment; and associated noise reduction from the installed technology. Control devices shall include high-efficiency mufflers, acoustic dampening, and protected internal noise absorption layers for vibrating components, enclosures, and electric motors. In addition, the contractor shall specify how proposed alternative construction procedures will be employed to reduce noise at sensitive receptors compared to other more traditional methods. Examples include, but are not limited to welding instead of riveting, mixing concrete off-site instead of on-site, and using thermal lances instead of drive motors and bits. In all cases, the requirement is that the best commercially available noise-reducing technology and noise-reducing alternative construction method shall be used, provided there are no safety concerns, engineering limits, or environmental constraints preventing it	Confirm that the mitigation measure is included in the construction contract. Implement noise-reducing operation measures, techniques, best practices, and equipment to achieve maximum practicable noise reduction. Post signs at the entrance(s) to the job site before the start of construction activities.	Project proponent and construction contractor, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Implement noise-reducing operation measures, techniques, best practices, and equipment to achieve maximum practicable noise reduction for the duration of construction activities. Post signs at the entrance(s) to the job site at least 10 days before the start of construction activities.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	from being used. If a unique circumstance does exist that prevents an alternative, quieter construction method from being used, the contractor shall provide evidence to support its proposal. The noise reduction elements of construction bid submittals shall be approved by the jurisdiction in which construction will occur, in coordination with a qualified acoustical professional. The ability for a construction contractor to reduce noise from construction shall be among the criteria used for selecting the contractor's bid. In addition to the bid-specific measures described above, the following specific measures shall be implemented to achieve the preceding measure: ▶ During the entire active construction period, equipment and trucks used for project construction shall use the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds). ▶ The contractor shall be required to use impact tools (e.g., jack hammers and hoe rams) that are hydraulically or electrically powered wherever possible. Where the 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. ▶ Stationary equipment, such as generators, air compressors, and stockpiled equipment, shall be located as far away from nearby noise-sensitive uses as allowed by physical (e.g., topography, structures) constraints. ▶ At least 10 days before the start of construction activities, a sign shall be posted at the entrance(s) to the job site, clearly visible to the public, that identifies permitted construction days and hours, as well as the telephone numbers of city and contractor representatives who are assigned to respond in the event of a noise or vibration complaint. If the authorized contractor's representative receives a complaint, the complaint shall be investigated, appropriate corrective action shall be taken, and the action shall be reported to the city. ▶ Signs shall be posted at the job site entrance(s), all staging areas, starting and end points of construction headings, as well as intermittently (at least every 5 miles) between construction start				

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	and end points, and in the on-site construction zones, and along queueing lanes (if any) to reinforce the prohibition of unnecessary engine idling. All other equipment shall be turned off if not in use for more than 5 minutes. ▶ During the entire active construction period, noise-producing signals, including horns, whistles, alarms, and bells, shall be used for safety warning purposes only. The construction manager shall use smart backup alarms, which automatically adjust the alarm level based on the background noise level, or switch off backup alarms and replace them with human spotters in compliance with all safety requirements and laws. ▶ Noisy operations (e.g., riveting, cutting, hammering) shall be combined to occur in the same period (e.g., day or construction phase), such that the overall duration of these activities is reduced. The total noise level produced will not be substantially greater than the level produced if the operations were performed separately, and the total duration of sensitive receptor exposure to substantial noise levels will be reduced.				
Recreation					
Impact 3.10-1: Potential to Increase the Use of Existing Parks or Other Recreational Facilities during Project Construction Such That Physical Deterioration Would Occur or Be Accelerated; and Impact 3.10-3: Potential to Substantially Increase Hazards Due to Incompatible Uses with Recreational Activities during Project Construction	**Mitigation Measure 3.10-1: Prepare and Implement Detour Plans for Parks, Trails, and Recreational Facilities** EBDA and Cargill shall prepare and implement a detour plan for all recreational facilities that would experience access interruptions during project construction, including Don Edwards National Wildlife Refuge/Newark Slough Trail, Alameda Creek Regional Trail, and segments of the San Francisco Bay Trail that are not within roadway rights-of-way. Detour plans shall be developed in consultation with applicable resource agencies, including USFWS, CDFW, BCDC, ACWD, EBRPD, the Metropolitan Transportation Commission (MTC), and the Cities of Hayward and Union City. The plan shall be prepared at least 14 days before the start of construction activities involving disruption to a recreational facility. The detour plan shall include posted signs at major entry points for recreational facilities clearly indicating closed areas, the location of alternative facilities or access points, detour routes, and a contact number to call for questions or concerns. The proposed detours will be required to meet accessibility requirements under the Americans with Disabilities Act. The construction contractor	Confirm that the mitigation measure is included in the construction contract. Prepare and implement a detour plan for all recreational facilities that would experience access interruptions during project construction. Maintain and implement the detour plan.	Project proponent and construction contractor, with EBDA oversight	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Prepare and implement a detour plan at least 14 days before the start of construction activities involving disruption to a recreational facility. Maintain and implement the detour plan throughout construction activities.	

Impact	Mitigation Measures	Action(s)	Implementing Party	Timing	Verification of Compliance
	shall be required to maintain and implement the detour plan throughout construction activities affecting access to a recreational facility. The 14-day notice period shall also provide time for these agencies to post notices on their respective websites regarding closures and alternate routes. EBDA and Cargill shall provide public information through the media regarding detours and alternative access routes for recreational facilities affected by project construction. EBDA and Cargill shall coordinate with applicable resource agencies to make available to the public information regarding detours at least 14 days before the start of construction activities where detours or closures are required. EBDA and Cargill shall continue to provide public information regarding detours/closures throughout the project construction period. Although closures are not anticipated at Coyote Hills Regional Park, EBDA and Cargill shall coordinate with EBRPD to ensure that the public is notified of construction activities in proximity to recreational use areas. Although closures are not anticipated at Hayward Regional Shoreline/Oro Loma Marsh, EBDA and Cargill shall coordinate with CDFW, EBRPD, and City of Hayward to ensure that the public is notified of construction activities in proximity to recreational use areas. Additionally, EBDA and Cargill shall coordinate with the members of the Hayward Area Shoreline Planning Agency (City of Hayward, Hayward Area Recreation and Park District, and EBRPD) to ensure that construction activities do not interfere with implementation of the Hayward Regional Shoreline Adaptation Master Plan (HASPA 2021), which includes goals to protect recreational assets and enhance recreational opportunities in response to the threat of sea level rise.				

Notes: ACWD = Alameda County Water District; ASTM = American Society for Testing and Materials; BAAD = Bay Area Air District (formerly known as Bay Area Air Quality Management District); BCDC = San Francisco Bay Conservation and Development Commission; BMP = best management practice; Caltrans = California Department of Transportation; CCR = California Code of Regulations; CDFW = California Department of Fish and Wildlife; CERCLA = Comprehensive Environmental Response, Compensation, and Liability Act; CESA = California Endangered Species Act; CFR = Code of Federal Regulations; CSLC = California State Lands Commission; CUPA = Certified Unified Program Agency; dBA = A-weighted decibels; DTSC = California Department of Toxic Substances Control; EBDA = East Bay Dischargers Authority; EBRPD = East Bay Regional Park District; EPA = US Environmental Protection Agency; ESA = Environmental Site Assessment; FEMA = Federal Emergency Management Agency; GSA = Groundwater Sustainability Agency; HASP = health and safety plan; ITP = Incidental Take Permit; MBTA = Migratory Bird Treaty Act; MSS = mixed sea salt; MTC = Metropolitan Transportation Commission; NO_X = nitrous oxide; OSHA = Occupational Safety and Health Administration; RCRA = Resource Conservation and Recovery Act; RWQCB = regional water quality control board; SFBAAB = San Francisco Bay Area Air Basin; SR = state route; USACE = US Army Corps of Engineers; USFWS = US Fish and Wildlife Service.

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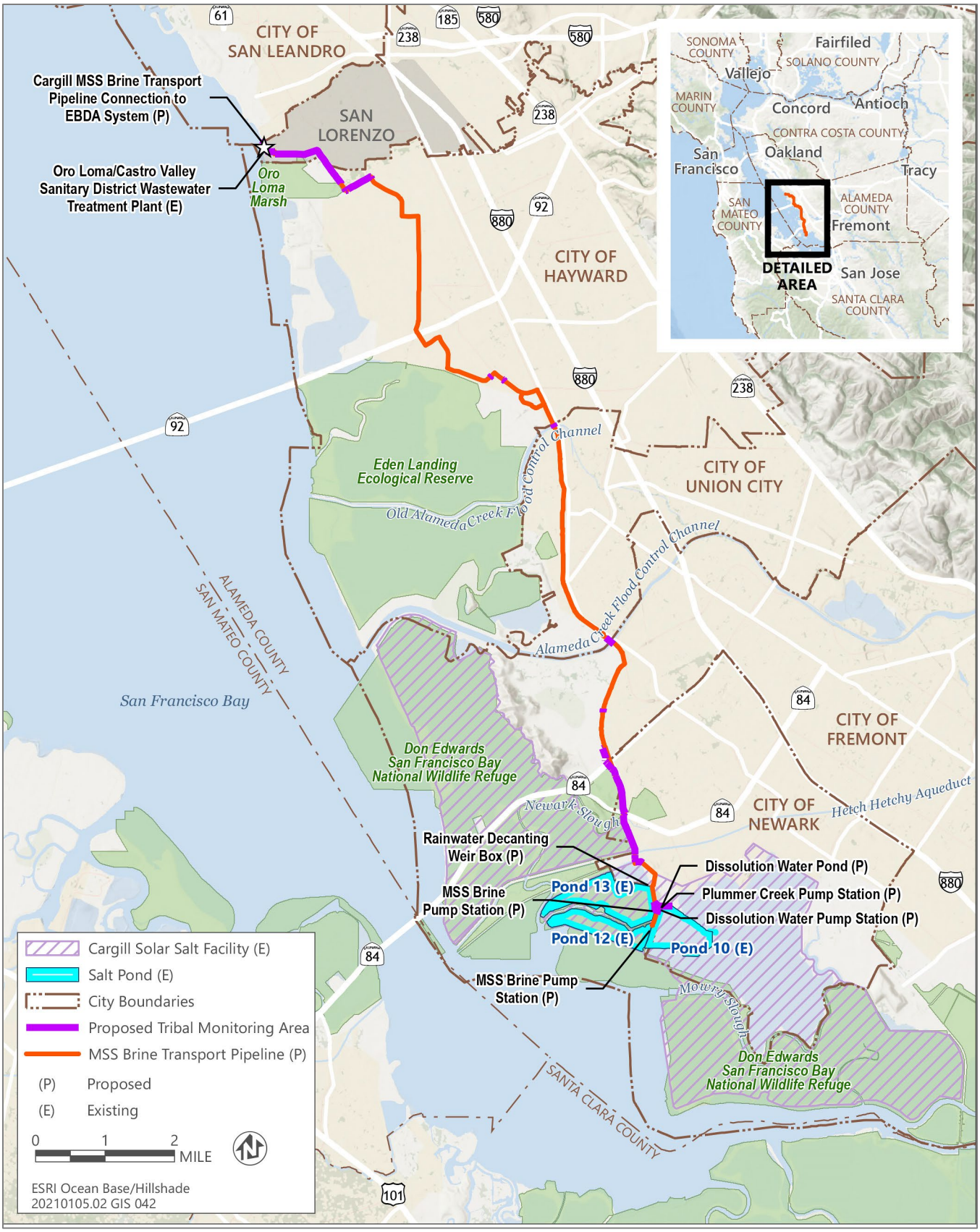
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Attachment A

Figure 3.4-1: Proposed Tribal Monitoring Area



Source: Data received from AECOM and Jacobs in 2021 and 2022; adapted by Ascent in 2022

Figure 3.4-1: Proposed Tribal Monitoring Area