

Appendix A

Regulatory Setting

A.1 Aesthetics

A.1.1 Federal and Local

No federal or local plans, policies, regulations, or laws related to aesthetics, light, and glare are applicable to the project.

A.1.2 State

California Scenic Highway Program

California Scenic Highway Program California's Scenic Highway Program was created by the California Legislature in 1963 and is managed by the California Department of Transportation (Caltrans). The goal of the program is to protect and enhance the natural scenic highway corridors from changes that would affect the aesthetic value of the land adjacent to highways. A highway may be designated *scenic* depending on how much of the natural landscape travelers can see, the scenic quality of the landscape, and the extent to which development intrudes on travelers' enjoyment of the view (Caltrans 2024). The nearest officially designated scenic highway is a portion of Route 180 located approximately 70 miles east of the project site.

A.1.3 Local

No local plans, policies, regulations, or laws related to aesthetics are applicable to the project.

A.1.4 References

Department of Transportation (Caltrans). 2024. *Scenic Highways–California State Scenic Highways*. Available: <https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways>. Accessed; April 10, 2024.

A.2 Agriculture and Forestry Resources

No regulations, ordinances, laws, or standards related to agriculture and forestry resources are applicable to the project.

A.3 Air Quality

A.3.1 Federal

Clean Air Act and Ambient Air Quality Standards

The federal Clean Air Act (CAA), (promulgated in 1963 and amended several times thereafter), establishes the framework for modern air pollution control in the United States. CAA directs the U.S. Environmental Protection Agency (EPA) to establish federal air quality standards, known as national ambient air quality standards (NAAQS), and specifies future dates for achieving compliance. EPA has set NAAQS for six criteria pollutants: ozone, carbon monoxide (CO), particulate matter (PM) of 10 microns in diameter and smaller (PM10) and 2.5 microns in diameter and smaller (PM2.5), sulfur dioxide (SO₂), nitrogen dioxide (NO₂), and lead (Pb). NAAQS are divided into primary and secondary standards; the former are set to protect human health with an adequate margin of safety, the latter to protect environmental values, such as plant and animal life (Clean Air Act Section 109).

A.3.2 State

California Clean Air Act and Ambient Air Quality Standards

In 1988, the California Legislature adopted the California CAA, which established a statewide air pollution control program. The California CAA requires all air districts in the state to endeavor to meet California ambient air quality standards (CAAQS) by the earliest practical date. Unlike the federal CAA, the California CAA does not set precise attainment deadlines. Instead, the California CAA establishes increasingly stringent requirements for areas that will require more time to achieve the standards. CAAQS are generally more stringent than NAAQS and incorporate additional standards for sulfates, hydrogen sulfide, visibility-reducing particles, and vinyl chloride.

The California Air Resources Board (CARB) and local air districts bear responsibility for achieving the CAAQS, which are to be achieved through district-level air quality management plans to be incorporated into the state implementation plan (SIP). In California, EPA has delegated authority to prepare SIPs to CARB, which, in turn, has delegated that authority to individual air districts. CARB traditionally has established state air quality standards, maintaining oversight authority in air quality planning, developing programs for reducing emissions from motor vehicles, developing air emission inventories, collecting air quality and meteorological data, and approving SIPs.

The California CAA substantially adds to the authority and responsibilities of air districts. The California CAA designates air districts as lead air quality planning agencies, requires air districts to prepare air quality plans, and grants air districts authority to implement transportation control measures. The California CAA also emphasizes the control of “indirect and area-wide sources” of air pollutant emissions. An indirect source is a facility or land use that attracts or generates motor vehicle traffic. The California CAA gives local air pollution control districts explicit authority to regulate indirect sources of air pollution and to establish traffic control measures.

A.3.3 Local

Air District Thresholds

The project site is in the jurisdiction of the San Joaquin Valley Air Pollution Control District (SJVAPCD), the role of which is to achieve clean air to protect public health and the environment. SJVAPCD's primary responsibility is to attain and maintain the NAAQS and CAAQS in the San Joaquin Valley Air Basin (SJVAB) by regulating air pollution emissions from stationary and industrial sources. These responsibilities are met by adopting and enforcing rules and regulations concerning air pollutant sources, issuing permits for stationary sources of air pollutants, and inspecting stationary sources of air pollutants. The SJVAPCD 2015 *Guidance for Assessing and Mitigating Air Quality Impacts* was used to inform the approach for modeling project impacts.

The air district thresholds have been developed to prevent further deterioration of ambient air quality, which is influenced by emissions generated by projects in the SJVAB. The project-level thresholds therefore consider relevant past, present, and reasonably foreseeable future projects in the project area. Therefore, the emissions thresholds in Table A-1 represent the maximum emissions the project may generate before it would result in a cumulatively considerable adverse contribution to existing air quality conditions.

SJVAPCD's cumulative thresholds are based on the SJVAPCD Rule 2201 (New Source Review—NSR) offset thresholds of significance for criteria pollutants. SJVAPCD has determined these thresholds are an appropriate and effective means of promoting consistency in significance determinations in the environmental review process and are applicable to both stationary and non-stationary emissions sources. SJVAPCD's attainment plans demonstrate that project-specific emissions below their thresholds would have a less-than-significant impact on air quality (SJVAPCD 2015).

In addition to their cumulative thresholds, SJVAPCD has established a 100-pound-per-day screening criteria, shown in Table A-1, to help determine whether increased emissions from a project would cause or contribute to a violation of CAAQS or NAAQS. Projects with emissions below the screening criteria would not be in violation of CAAQS or NAAQS. Projects with emissions above the screening criteria would require an ambient air quality analysis to confirm this conclusion (SJVAPCD 2015).

Table A-1. SJVAPCD Thresholds of Significance for Construction-related Criteria Air Pollutants and Precursors

Criteria Pollutant or Precursor	Threshold of Significance (tons/year)	Daily Screening Criteria
ROG	10	100-pound-per-day of any criteria pollutant
NO _x	10	
CO	100	
SO ₂	27	
PM ₁₀	15	
PM _{2.5}	15	

Source: SJVAPCD 2015.

ROG = reactive organic gases; NO_x = nitrogen oxide; CO = carbon monoxide; SO₂ = sulfur dioxide; PM₁₀ = particulate matter less than 10 microns in size; PM_{2.5} = particulate matter less than 2.5 microns in size.

A.3.4 References

San Joaquin Valley Air Pollution Control District (SJVAPCD). 2015. *Guidance for Assessing and Mitigating Air Quality Impacts*. Available: <https://www.valleyair.org/transportation/GAMAQI.pdf>. Accessed: April 3, 2024.

A.4 Biological Resources

A.4.1 Federal

Endangered Species Act

The federal Endangered Species Act (ESA) is administered by the U.S. Fish and Wildlife Service (USFWS) for terrestrial and freshwater fish species and by the National Marine Fisheries Service (NMFS) for marine and anadromous species. ESA requires these federal agencies to maintain lists of threatened and endangered species. USFWS or NMFS can list species as either endangered or threatened. An *endangered* species is at risk of extinction throughout all or a significant portion of its range (ESA section 3[6]). A *threatened* species is likely to become endangered within the foreseeable future (ESA section 3[19]). Section 9 of ESA prohibits the take of any fish or wildlife species listed under ESA as endangered or threatened. *Take*, as defined by ESA, means “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” *Harm* is defined as “any act that kills or injures the species, including significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering” (50 Code of Federal Regulations [CFR] 17.3).

Endangered Species Act Section 7

Section 7 of ESA requires all federal agencies to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of habitat critical to such species’ survival. To ensure that its actions do not result in jeopardy to listed species or in the adverse modification of critical habitat, each federal agency must consult with USFWS and/or NMFS regarding federal agency actions that may affect listed species. The issuance of Clean Water Act (CWA) section 404 permits is a federal action that triggers a section 7 consultation. Consultation begins when the federal agency submits a written request for initiation to USFWS or NMFS, along with the agency’s biological assessment of its proposed action, and when USFWS or NMFS accepts that biological assessment as complete. If USFWS or NMFS concludes that the action is not likely to adversely affect a listed species, the action may be conducted without further review under ESA. Otherwise, USFWS or NMFS must prepare a written biological opinion describing how the agency’s action will affect the listed species and its critical habitat.

The Migratory Bird Treaty Act

The Migratory Bird Treaty Act of 1918, as amended (MBTA), implements various treaties and conventions between the U.S. and Canada, Japan, Mexico, and the former Soviet Union for the protection of migratory birds. Under the MBTA, taking, killing, or possessing migratory birds is unlawful, as is taking of any parts, nests, or eggs of such birds (U.S. Government Code [USC], title 16,

section 703). Take is defined more narrowly under the MBTA than under ESA and includes only the death or injury of individuals of a migratory bird species or their eggs. As such, *take* under the MBTA does not include the concepts of harm and harassment as defined under ESA. The MBTA defines migratory birds broadly; all birds native to North America are considered migratory birds under the MBTA.

Clean Water Act Section 404

The CWA is the primary federal law that protects the physical, chemical, and biological integrity of the nation's waters, including lakes, rivers, wetlands, and coastal waters. Programs conducted under the CWA are directed at both point source pollution (e.g., waste discharged from outfalls and filling of waters) and nonpoint source pollution (e.g., runoff from parking lots). Under the CWA, the U.S. Environmental Protection Agency (USEPA) and state agencies set effluent limitations and issue permits under CWA section 402 governing point-source discharges of wastes to waters. The U.S. Army Corps of Engineers (USACE), applying its regulations under guidelines issued by EPA, issues permits under CWA section 404 governing under what circumstances dredged or fill material may be discharged to waters. These section 402 and 404 permits are the primary regulatory tools of the CWA. EPA has oversight over all CWA permits issued by USACE.

USACE issues two types of permits under section 404: general permits (either nationwide permits or regional permits) and standard permits (either letters of permission or individual permits). General permits are issued by USACE to streamline the section 404 process for nationwide, statewide, or regional activities that have minimal direct or cumulative environmental impacts on the aquatic environment. Standard permits are issued for activities that do not qualify for a general permit (i.e., activities that may have more than a minimal adverse environmental impact).

Clean Water Act Section 401 and the Porter-Cologne Water Quality Control Act

Under CWA section 401, states have the authority to certify federal permits for discharges to waters under state jurisdiction. States may review proposed federal permits (e.g., section 404 permits) for compliance with state water quality standards. The permit cannot be issued if the state denies certification. In California, the State Water Resources Control Board (State Water Board) and the Regional Water Quality Control Boards (Regional Water Boards) are responsible for the issuance of section 401 certifications.

The Porter-Cologne Water Quality Control Act is the primary state law concerning water quality. It authorizes the State Water Board and Regional Water Boards to prepare management plans such as regional water quality plans to address the quality of groundwater and surface water. The Porter-Cologne Water Quality Control Act also authorizes the Regional Water Boards to issue waste discharge requirements defining limitations on allowable discharge to waters of the state. In addition to issuing section 401 certifications on section 404 applications to fill waters, the Regional Water Boards may also issue waste discharge requirements for such activities. Because the authority for waste discharge requirements is derived from the Porter-Cologne Water Quality Control Act and not the CWA, waste discharge requirements may apply to a somewhat different range of aquatic resources than do section 404 permits and section 401 water quality certifications. Applicants that obtain a permit from USACE under section 404 must also obtain certification of that permit by the Regional Water Board with jurisdiction over the project site.

A.4.2 State

California Endangered Species Act

California Endangered Species Act (CESA): (Fish & Game Code chapter 1.5, sections 2050–2115.5, California Code of Regulations (CCR), title 14, chapter 6, § 783.0-787.9). CESA protects or preserves all native species of fishes, amphibians, reptiles, birds, mammals, invertebrates, and plants, and their habitats, threatened with extinction and those experiencing a significant decline which, if not halted, would lead to a threatened or endangered designation. CESA also states that all native species of fishes, amphibians, reptiles, birds, mammals, invertebrates, and plants, and their habitats, threatened with extinction and those experiencing a significant decline which, if not halted, would lead to a threatened or endangered designation, will be protected or preserved.

California Native Plant Protection Act

The California Native Plant Protection Act of 1977 (California Fish and Game Code 1900–1913) prohibits importation of rare and endangered plants into California, take of rare and endangered plants, and sale of rare and endangered plants. CESA defers to the plant protection act, which ensures that state-listed plant species are protected when state agencies are involved in projects subject to CEQA. In this case, plants listed as rare under the act are not protected under CESA but rather under CEQA.

California Fish and Game Code Section 3503

The California Fish & Game Code Section 3503 prohibits the take, possession, or needless destruction of the nest or eggs of any bird; and Section 3513 prohibits the take or possession of any migratory nongame bird or part thereof as designated in the MBTA. Any birds in the orders Falconiformes or Strigiformes (birds of prey, such as hawks and owls) are protected under Fish & Game Code Section 3503.5, which makes it unlawful to take, possess, or destroy their nest or eggs.

California Fully Protected Species

In the 1960s, before CESA was enacted, the California legislature identified specific species for protection under the Fish & Game Code. These *fully protected* species may not be taken or possessed at any time, and no licenses or permits may be issued for their take except for collecting these species for necessary scientific research and relocation of bird species for the protection of livestock. Fully protected species are described in sections 3511 (birds), 4700 (mammals), 5050 (reptiles and amphibians), and 5515 (fish) of the Fish & Game Code.

A.4.3 Local

Fresno County General Plan

The Fresno County General Plan (Fresno County 2024) provides specific policies protecting aquatic, upland, nesting bird, and other sensitive habitats and general guidance on how affected projects should mitigate potential impacts on wildlife and habitats.

- **OS-A.19.** Water Discharge Pollution Mitigation
- **OS-A.20.** Minimization of Sedimentation and Erosion
- **OS-D.4.** Riparian Protection Zones
- **OS-D.5.** Upland Habitat Protection
- **OS-E.1.** Avoid Habitat Loss
- **OS-E.2.** Construction Buffers
- **OS-E.17.** Endangered Species Habitat
- **OS-E.19.** Nesting Birds
- **OS-F.8.** Vegetation for Wildlife

A.5 Cultural Resources

A.5.1 Federal

National Register of Historic Places

Although the project does not have a federal nexus, properties that are listed in or have been formally determined eligible for listing in the National Register of Historic Places (NRHP) are automatically listed in the California Register of Historic Places (CRHR). The NRHP was authorized by Section 101 of the National Historic Preservation Act and is the nation's official list of cultural resources worthy of preservation. The NRHP recognizes the quality of significance in American, state, and local history, architecture, archaeology, engineering, and culture present in districts, sites, buildings, structures, and objects. Per 36 CFR Part 60.4, a property is eligible for listing in the NRHP if it meets one or more of the following criteria.

- **Criterion A:** Is associated with events that have made a significant contribution to the broad patterns of our history.
- **Criterion B:** Is associated with the lives of persons significant in our past.
- **Criterion C:** Embodies the distinctive characteristics of a type, period, or method of installation, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.

- **Criterion D:** Has yielded, or may be likely to yield, information important in prehistory or history.

In addition to meeting at least one of the above designation criteria, resources must also retain integrity. The National Park Service recognizes seven aspects or qualities that, considered together, define historic integrity. To retain integrity, a property must possess several, if not all, of these seven qualities, defined as follows.

- **Location:** The place where the historic property was constructed or the place where the historic event occurred.
- **Design:** The combination of elements that create the form, plan, space, structure, and style of a property.
- **Setting:** The physical environment of a historic property.
- **Materials:** The physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.
- **Workmanship:** The physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
- **Feeling:** A property's expression of the aesthetic or historic sense of a particular period of time.
- **Association:** The direct link between an important historic event or person and a historic property.

Certain properties are generally considered ineligible for listing in the NRHP, including cemeteries, birthplaces, graves of historical figures, properties owned by religious institutions, relocated structures, or commemorative properties. Additionally, a property must be at least 50 years of age to be eligible for listing in the NRHP. Properties less than 50 years must be determined to have "exceptional importance" to be considered eligible for NRHP listing.

A.5.2 State

California Environmental Quality Act

California Public Resources Code (PRC) Section 21084.1 requires lead agencies to determine if a project could have a significant impact on historical or unique archaeological resources. As defined in PRC Section 21084.1, a historical resource is a resource listed in, or determined eligible for listing in, the CRHR; a resource included in a local register of historical resources or identified in a historical resources survey pursuant to PRC Section 5024.1(g); or any object, building, structure, site, area, place, record, or manuscript that a lead agency determines to be historically significant. PRC Section 21084.1 also states resources meeting the above criteria are presumed to be historically or culturally significant unless the preponderance of evidence demonstrates otherwise. Resources listed in the NRHP are automatically listed in the CRHR, as are California Historical Landmarks 770 and above; both are, therefore, historical resources under CEQA. Historical resources may include eligible built environment resources and archaeological resources of the precontact or historic periods.

CEQA Guidelines Section 15064.5(c) provides further guidance on the consideration of archaeological resources. If an archaeological resource does not qualify as a historical resource, it

may meet the definition of a “unique archaeological resource” as identified in PRC Section 21083.2. PRC Section 21083.2(g) defines a unique archaeological resource as an artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria: (1) it contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information, (2) has a special and particular quality such as being the oldest of its type or the best available example of its type, or (3) is directly associated with a scientifically recognized important prehistoric or historic event or person.

If an archaeological resource does not qualify as a historical or unique archaeological resource, the impacts of a project on those resources will be less than significant and need not be considered further (CEQA Guidelines Section 15064.5[c][4]). CEQA Guidelines Section 15064.5 also provides guidance for addressing the potential presence of human remains, including those discovered during the implementation of a project.

According to CEQA, an impact that results in a substantial adverse change in the significance of a historical resource is considered a significant impact on the environment. A substantial adverse change could result from physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of the historical resource would be materially impaired (CEQA Guidelines Section 15064.5 [b][1]). Material impairment is defined as demolition or alteration in an adverse manner of those characteristics of a historical resource that convey its historical significance and that justify its inclusion in, or eligibility for inclusion in, the CRHR or a local register (CEQA Guidelines Section 15064.5[b][2][A]).

If it can be demonstrated that a project will cause damage to a unique archaeological resource, the lead agency may require reasonable efforts be made to permit any or all of these resources to be preserved in place or left in an undisturbed state. To the extent that resources cannot be left undisturbed, mitigation measures are required (PRC Section 21083.2[a][b]). Generally, a project that is found to comply with the Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (the Standards) is considered to be mitigated below a level of significance (CEQA Guidelines Section 15126.4 [b][1]). For historical resources of an archaeological nature, lead agencies should also seek to avoid damaging effects where feasible. Preservation in place is the preferred manner to mitigate impacts to archaeological sites; however, data recovery through excavation may be the only option in certain instances (CEQA Guidelines Section 15126.4[b][3])

California Register of Historical Resources

The CRHR was established in 1992 and codified by PRC Sections 5024.1 and Title 14 Section 4852. The CRHR is an authoritative listing and guide to be used by state and local agencies, private groups, and citizens in identifying the existing historical resources of the state and to indicate which resources deserve to be protected, to the extent prudent and feasible, from substantial adverse change (PRC 5024.1(a)). The criteria for eligibility for the CRHR are consistent with the NRHP criteria but have been modified for state use in order to include a range of historical resources that better reflect the history of California (PRC 5024.1(b)). Unlike the NRHP however, the CRHR does not have a defined age threshold for eligibility; rather, a resource may be eligible for the CRHR if it can be demonstrated sufficient time has passed to understand its historical or architectural significance. Furthermore, resources may still be eligible for listing in the CRHR even if they do not retain sufficient integrity for NRHP eligibility (California Office of Historic Preservation 2011).

Generally, the California Office of Historic Preservation recommends resources over 45 years of age be recorded and evaluated for historical resources eligibility (California Office of Historic Preservation 1995:2).

A property is eligible for listing in the CRHR if it meets one of more of the following criteria.

- **Criterion 1:** Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
- **Criterion 2:** Is associated with the lives of persons important to our past.
- **Criterion 3:** Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
- **Criterion 4:** Has yielded, or may be likely to yield, information important in prehistory or history.

Governor's Executive Order B-10-11

Executive Order B-10-11 was signed by California Governor Edmund G. Brown, Jr., in September 2011. The order created a position of Tribal Advisor to the Governor. The Tribal Advisor is responsible for implementing effective government-to-government consultation between the Governor's administration and California Indian Tribes.

The order also states:

It is the policy of this Administration that every state agency and department subject to [the Governor's] executive control shall encourage communication and consultation with California Indian Tribes. Agencies and departments shall permit elected officials and other representatives of tribal governments to provide meaningful input into the development of legislation, regulations, rules, and policies on matters that may affect tribal communities.

For the purpose of the Executive Order, the term "California Indian Tribe" refers to all federally recognized tribes and "other California Native Americans."

California Assembly Bill 52 of 2014

As of July 1, 2015, Assembly Bill (AB) 52 was enacted and expands CEQA by defining a new resource category, "tribal cultural resources." AB 52 establishes, "a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment" (PRC Section 21084.2). It further states the CEQA lead agency shall establish measures to avoid impacts that would alter the significant characteristics of a tribal cultural resource, when feasible (PRC Section 21084.3).

PRC Section 21074 (a)(1)(A) and (B) define tribal cultural resources as "sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe" and that meets at least one of the following criteria, as summarized in CEQA Guidelines Appendix G:

1. Listed or eligible for listing in the CRHR, or in a local register of historical resources as defined in PRC Section 5020.1(k)

2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of PRC Section 5024.1. In applying these criteria, the lead agency shall consider the significance of the resource to a California Native American tribe.

AB 52 also establishes a formal consultation process with California Native American tribes that must be completed before a CEQA document can be certified. Under AB 52, lead agencies are required to “begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project.” California Native American tribes to be included in the process are those that have requested notice of projects proposed within the jurisdiction of the lead agency.

California Senate Bill 18 of 2004

California Government Code Section 65352.3 (adopted pursuant to the requirements of Senate Bill [SB] 18) requires local governments to contact, refer plans to, and consult with Tribal organizations prior to making a decision to adopt or amend a general or specific plan. The Tribal organizations eligible to consult have traditional lands in a local government’s jurisdiction, and are identified, upon request, by the Native American Heritage Commission (NAHC). As noted in the California Office of Planning and Research’s Tribal Consultation Guidelines (2005); “The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early planning stage, for the purpose of protecting, or mitigating impacts to, cultural places.” SB 18 refers to PRC Section 5097.9 and 5097.995 to define cultural places as follows.

- A Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine (PRC Section 5097.9)
- A Native American historic, cultural, or sacred site, that is listed or may be eligible for listing in the California Register of Historical Resources pursuant to Section 5024.1, including any historic or prehistoric ruins, any burial ground, any archaeological or historic site (PRC Section 5097.995).

California Health and Safety Code

Section 7050.5 of the California Health and Safety Code states that in the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the remains are discovered has determined if the remains are subject to the Coroner’s authority. If the human remains are of Native American origin, the coroner must notify the NAHC within 24 hours of this identification.

California Public Resources Code Section 5097.98

Section 5097.98 of the California Public Resources Code states that the NAHC, upon notification of the discovery of Native American human remains pursuant to Health and Safety Code Section 7050.5, shall immediately notify those persons (i.e., the Most Likely Descendant [MLD]) that it believes to be descended from the deceased. With permission of the landowner or a designated representative, the MLD may inspect the remains and any associated cultural materials and make recommendations for treatment or disposition of the remains and associated grave goods. The MLD

shall provide recommendations or preferences for treatment of the remains and associated cultural materials within 48 hours of being granted access to the site.

A.5.3 Local

Fresno County General Plan

Fresno County updated its general plan in 2024, which contains goals and policies that seek to preserve historical, archaeological, paleontological, geological, and cultural resources of the county through development review, acquisition, encouragement of easements, coordination with other agencies and groups, and other methods (Fresno County 2024). As presented in the Open Space and Conservation Element, these goals and policies include the following.

Goals

- **Goal OS-J:** To identify, protect, and enhance Fresno County's important historical, archaeological, paleontological, geological, and cultural sites and their contributing environment, and promote and encourage preservation, restoration, and rehabilitation of Fresno County's historically significant resources in order to promote historical awareness, community identity, and to recognize the county's valued assets that have contributed to past county events, trends, styles of architecture, and economy.

Policies

- **OS-J.1:** Preservation of Historic Resources: The County shall encourage preservation of any sites and/or buildings identified as having historical significance pursuant to the list maintained by the Fresno County Historic Landmarks and Records Advisory Commission.
- **OS-J.2:** Historic Resources Consideration: The County shall consider historic resources during preparation or evaluation of plans for discretionary development projects that may impact buildings or structures for a proposed project located on property that includes buildings, structures, objects, sites, landscapes, or other features that are 45 years of age or older at the time of permit application. The project applicants shall be responsible for preparing and implementation of the recommendations of a historical resources evaluation completed by qualified cultural resources practitioners.
- **OS-J.3:** Minimize Impacts: Whenever a historical resource is known to exist on a proposed project site, the County (i.e., Fresno County Historic Landmarks and Records Advisory Commission) shall evaluate and make recommendations to minimize potential impacts to said resource.
- **OS-J.4:** Cultural Resources Protection and Mitigation: The County shall require that discretionary development projects, as part of any required CEQA review, identify and protect important historical, archaeological, tribal, paleontological, and cultural sites and resources. For projects requiring ground disturbance and located within a high or moderate cultural sensitivity area, a cultural resources technical report may be warranted, including accurate archival research and site surveys conducted by qualified cultural resources practitioners. The need to prepare such studies shall be determined based on the tribal consultation process and initial outreach to local or state information centers.

- **OS-J.5:** Archaeological Sites Confidentiality: The County shall, within the limits of its authority and responsibility, maintain confidentiality regarding the location of archaeological sites in order to preserve and protect these resources from vandalism and the unauthorized removal of artifacts.
- **OS-J.6:** Native American Consultation: The County shall solicit the views of the local Native American community in cases where development may result in disturbance to sites containing evidence of Native American activity and/or sites of cultural importance.
- **OS-J.7:** Historical Sites Inventory: The County shall maintain an inventory of all sites and structures in the county determined to be of historical significance (Index of Historic Properties in Fresno County).
- **OS-J.8:** Landmark Designation: The County shall support the registration by property owners and others of cultural resources in appropriate landmark designations (i.e., National Register of Historic Places, California Historical Landmarks, Points of Historical Interest, or Local Landmark).
- **OS-J.9:** Historical Site Markers: The County shall provide for the placement of historical markers or signs on adjacent County roadways and major thoroughfares to attract and inform visitors of important historic resource sites. If such sites are open to the public, the County shall ensure that access is controlled to prevent damage or vandalism.
- **OS-J.10:** Cultural Resource Preservation: The County shall use the State Historic Building Code and existing legislation and ordinances to encourage preservation of cultural resources and their contributing environment.
- **OS-J.11:** Interpretive Services and Facilities: The County shall support efforts of other organizations and agencies to preserve and enhance historic resources for educational and cultural purposes through maintenance and development of interpretive services and facilities at County recreational areas and other sites.

A.5.4 References

Fresno County. 2024. *General Plan Policy Document: General Plan Review and Revision*. Final Draft. February. Available: [fcgpr_general-plan_prd-county_01-12_24-clean.pdf](https://www.fresnocountyca.gov/files/fcgpr_general-plan_prd-county_01-12_24-clean.pdf) (fresnocountyca.gov). Accessed: May 2024.

A.6 Energy

A.6.1 Federal

Energy Policy and Conservation Act and CAFE Standards

The Energy Policy and Conservation Act (EPCA) of 1975 was established to address various aspects of energy production and efficiency in the United States. Key provisions of EPCA include a Strategic Petroleum Reserve, Vehicle Fuel Economy Standards, and a Crude Oil Export Ban from 1977 to 2015. Corporate Average Fuel Economy (CAFE) standards were passed in 1975 as part of the EPCA that set a requirement for manufacturers to produce a fleet of vehicles that reached a specific average fuel economy.

A.6.2 State

Warren-Alquist Act

The 1975 Warren-Alquist Act designates the California Energy Commission as the state's primary energy policy and planning agency and was established to reduce wasteful, uneconomical, and unnecessary uses of energy through provisions and measures. The California Public Utilities Commission regulates privately-owned utilities in energy, rail, telecommunications, and water fields.

Clean Energy and Pollution Reduction Act

The Clean Energy and Pollution Reduction Act of 2015 (Senate Bill 350) requires doubling of the energy efficiency savings in electricity and natural gas for retail customers through energy efficiency and conservation by December 31, 2030.

A.6.3 Local

No local plans, policies, regulations, or laws related to energy resources are applicable to the project.

A.7 Geology and Soils

No federal, state, or local plans, policies, regulations, or laws related to geology and soils are applicable to the project.

A.8 Greenhouse Gas Emissions

A.8.1 Federal

Executive Action on Greenhouse Gas Emissions

There is currently no federal law or legislatively mandated national greenhouse gas (GHG) reduction target. However, several federal executive orders (EO) have recently been signed by President Joe Biden related to GHG emissions and climate resiliency. EO 13990, signed in January 2021, set a national goal to achieve a 50 to 52 percent reduction from 2005 levels in economy-wide net GHG pollution in 2030. EO 14057, signed in December 2021, requires federal agencies to develop strategic processes for achieving, among other things, carbon-free electricity by 2030 and 100 percent zero-emission vehicle acquisitions by 2035. President Joe Biden has also signed two bills—Infrastructure Investment and Jobs Act (2021) and Inflation Reduction Act (2022)—that provide funding for infrastructure improvements that will reduce GHG emissions and bolster resilience to climate change.

A.8.2 State

Legislative Reduction Targets

Senate Bill (SB) 32 requires the state to reduce emissions to 40 percent below the 1990 level by 2030. Assembly Bill (AB) 1279 requires California to achieve net-zero GHG emissions (i.e., reach a balance between the GHGs emitted and removed from the atmosphere) no later than 2045 and to achieve and maintain net-negative GHG emissions from then on. It also mandates an 85 percent reduction in statewide anthropogenic GHG emissions (from 1990 levels) by 2045. AB 1279 requires state agencies aim to achieve net-zero GHG emissions resulting from their operations no later than 2035, or as soon as feasible thereafter.

The state's plan to reach these targets are presented in periodic scoping plans. CARB (2017) adopted the 2017 Climate Change Scoping Plan in November 2017 to meet the GHG reduction requirement set forth in SB 32. It proposes continuing the major programs of the previous scoping plan, including cap-and-trade regulation; low carbon fuel standards; more efficient cars, trucks, and freight movement; Renewables Portfolio Standard; and reducing methane (CH₄) emissions from agricultural and other wastes. CARB (2022) completed the *2022 Scoping Plan for Achieving Carbon Neutrality* in November 2022 to identify a technologically feasible, cost-effective and equity-focused path to achieve carbon neutrality by 2045, pursuant to AB 1279. The plan also assesses the state's progress toward meeting the GHG emissions reduction goal called for in SB 32.

A.8.3 Local

Air District Thresholds

SJVAPCD's (2015) CEQA Guidelines do not identify a GHG emissions threshold for construction-related emissions. Accordingly, there are no adopted quantitative GHG thresholds relevant to the soil remediation project. Therefore, direct and indirect GHG emissions from the project are discussed with respect to larger statewide GHG emission reduction goals, where a significant impact would occur if emissions would obstruct attainment of the targets outlined SB 32 or AB 1279.

A.9 Hazards and Hazardous Materials

A.9.1 Federal

Hazardous Waste Handling

The federal Toxic Substances Control Act (TSCA) of 1976 and the Resource Conservation and Recovery Act (RCRA) established a program to be administered by the USEPA) to regulate the generation, transport, treatment, storage, and disposal of hazardous waste. The TSCA authorized the EPA to secure information on all new and existing chemical substances and control those substances with unreasonable risks related to public health and the environment. The RCRA was amended in 1984 by the Hazardous and Solid Waste Act, which specifically prohibits the use of certain techniques for the disposal of hazardous waste.

Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as “Superfund,” was enacted by Congress on December 11, 1980, and amended by the Superfund Amendments and Reauthorization Act on October 17, 1986. This law (42 USC 103) provides broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA establishes requirements concerning closed and abandoned hazardous waste sites, provides for liability of persons responsible for releases of hazardous waste at these sites, and establishes a trust fund to provide for cleanup when no responsible party can be identified. CERCLA also enabled revision of the National Contingency Plan (NCP). The NCP (40 CFR 300) provides the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, and/or contaminants. The NCP also established the National Priorities List.

Occupational Safety and Health Administration

The Occupational Safety and Health Act of 1970, administered by the Occupational Safety and Health Administration (OSHA), is intended to ensure the safety and health of American workers by setting and enforcing standards; providing training, outreach, and education; establishing partnerships; and encouraging continual improvement in workplace safety and health. OSHA establishes and enforces protective standards and reaches out to employers and employees through technical assistance and consultation programs. OSHA standards are listed in 29 CFR 1910.

U.S. Department of Transportation Hazardous Materials Regulations

The U.S. Department of Transportation regulations cover all aspects of hazardous materials packaging, handling, and transportation (49 CFR 100–185). Some of the topics covered include 49 CFR Parts 107 (Hazard Materials Program), 130 (Oil Spill Prevention and Response), 172 (Emergency Response), 173 (Packaging Requirements), 174 (Rail Transportation), 176 (Vessel Transportation), 177 (Highway Transportation), 178 (Packaging Specifications), and 180 (Packaging Maintenance).

A.9.2 State

California Environmental Protection Agency

The California Environmental Protection Agency (CalEPA) was created in 1991. It unified California’s environmental authority in a single cabinet-level agency and brought the California Air Resources Board (CARB), State Water Resources Control Board (State Water Board), Regional Water Quality Control Boards (RWQCBs), California Department of Resources Recycling and Recovery (CalRecycle), DTSC, Office of Environmental Health Hazard Assessment, and Department of Pesticide Regulation under one agency. These agencies were placed under the CalEPA umbrella for the protection of human health and the environment to ensure the coordinated deployment of state resources. Their mission is to restore, protect, and enhance the environment and ensure public health, environmental quality, and economic vitality.

Department of Toxic Substances Control

DTSC, a department of CalEPA, is the primary agency in California for regulating hazardous waste, cleaning up existing contamination, and finding ways to reduce the amount of hazardous waste produced in California. DTSC regulates hazardous waste primarily under the authority of the RCRA and the California Health and Safety Code (primarily Division 20, Chapters 6.5–10.6, and Title 22, Division 4.5). Other laws that affect hazardous waste are specific to handling, storage, transportation, disposal, treatment, reduction, cleanup, and emergency planning.

Cortese List

CalEPA maintains the Hazardous Wastes and Substances Site (Cortese) List, a planning document used by state and local agencies and developers to comply with CEQA requirements in providing information about the locations of hazardous materials release sites. Per Government Code section 65962.5, the Cortese List must be updated at least once annually. DTSC, the State Water Board, and CalRecycle contribute to the hazardous material release site listings.

Hazardous Waste Control Act

DTSC is responsible for enforcing the Hazardous Waste Control Act (California Health and Safety Code Section 25100 et seq.), a framework under which hazardous wastes are managed in California. The law provides for the development of a state hazardous waste program that administers and implements the provisions of the RCRA with regards to waste management system in California. It also provides for the designation of California-only hazardous waste and development of standards that are equal to or, in some cases, more stringent than federal requirements.

A.9.3 Local

The *Fresno County General Plan Policy Document*, Health and Safety Element, Section F: *Hazardous Materials*, contains policies relevant to the proposed project (Fresno County 2024).

- **Policy HS-F.3.** The County, through its Hazardous Materials Incident Response Plan, shall coordinate and cooperate with emergency response agencies to ensure adequate countywide response to hazardous materials incidents.
- **Policy HS-F.6.** The County shall work cooperatively with the State Department of Toxic Substances Control and Regional Water Quality Control Board to promote the timely and efficient cleanup of contaminated sites under the regulatory oversight of these agencies.

A.10 Hydrology and Water Quality

A.10.1 Federal

Clean Water Act

The federal Clean Water Act (CWA) of 1972 was enacted with the primary purpose of restoring and maintaining the chemical, physical, and biological integrity of the nation's waters. The CWA directs states to establish water quality standards for all waters of the United States and to review and

update such standards on a triennial basis. At the federal level, the CWA is administered by the USEPA. The USEPA has delegated responsibility for implementation of portions of the CWA, including water quality control planning and control programs, such as the National Pollutant Discharge Elimination System (NPDES) program, to the State Water Board, and the Regional Water Quality Control Boards (Regional Water Boards). The State Water Board establishes statewide policies and regulations for the implementation of water quality control programs mandated by federal and state water quality statutes and regulations. The following are important CWA sections.

- Section 303(d) requires that the states make a list of waters that are not attaining standards after the technology-based limits are put into place. For waters on this list (and where the USEPA administrator deems, they are appropriate), the states are to develop total maximum daily loads (TMDL). TMDLs are established at the level necessary to implement the applicable water quality standards.
- Section 401 requires an applicant for a federal license or permit to conduct any activity that may result in a discharge to waters of the United States to obtain certification from the state that the discharge will comply with other provisions of the act. This is most frequently required in tandem with a Section 404 permit request.
- Section 402 establishes the NPDES, a permitting system for the discharges (except for dredge or fill material) of any pollutant into waters of the United States. Regional Water Boards administer this permitting program in California. Section 402(p) requires permits for discharges of storm water from industrial/construction and municipal separate storm sewer systems (MS4s).
- Section 404 establishes a permit program for the discharge of dredge or fill material into waters of the United States. This permit program is administered by the U.S. Army Corps of Engineers (USACE).

National Flood Insurance Program

The National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 restrict certain types of development on floodplains and provide for a National Flood Insurance Program (NFIP). The NFIP is a federal program administered by the Flood Insurance Administration of the Federal Emergency Management Administration (FEMA). FEMA is responsible for determining, based on USACE studies and in coordination with states and local governments, flood elevations and floodplain boundaries. FEMA is also responsible for identifying flood hazard areas and publishes a boundary map of flood hazards, including the 100-year floodplain, in those areas in connection with the NFIP. FEMA allows non-residential development in the floodplain; however, construction activities are restricted within the flood hazard areas, depending on the potential for flooding within each area. Floodplain mapping is an ongoing process and flood maps must be regularly updated for both major rivers and tributaries as land uses and development patterns change.

A.10.2 State

Porter-Cologne Water Quality Act

The Porter-Cologne Water Quality Control Act (Porter-Cologne Act) established the State Water Board and divided the state into nine Regional Water Boards, which are responsible for coordination and control of water quality within their respective jurisdictional boundaries. Waters of the State are defined more broadly than waters of the United States; they are defined as any

surface water or groundwater, including saline waters, within the boundaries of the state. This includes waters in both natural and artificial channels. The act requires the Regional Water Boards to establish water quality objectives while acknowledging that water quality may be changed to some degree without unreasonably affecting beneficial uses. Designated beneficial uses, together with the corresponding water quality objectives, also constitute water quality standards under the federal CWA. The Porter-Cologne Act also requires projects that are discharging, or proposing to discharge, wastes that could affect the quality of the state's water to file a waste discharge report with the appropriate Regional Water Board.

NPDES General Permit for Construction Activities

Most construction activities that disturb 1 acre of land or more are required to obtain coverage under the NPDES General Permit for Construction Activities (Construction General Permit). The State Water Board has issued a statewide Construction General Permit (Order WQ 2022-0057-DWQ, NPDES NO. CAS000002), adopted September 8, 2022. Construction activities subject to the Construction General Permit include clearing, grading, and disturbances to the ground, such as stockpiling or excavation, which result in soil disturbances of at least 1 acre of total land area. The Construction General Permit requires the applicant to file a notice of intent (NOI) to discharge stormwater and to prepare and implement a stormwater pollution prevention plan (SWPPP). The SWPPP includes a site map and a description of proposed construction activities, along with a demonstration of compliance with relevant local ordinances and regulations, and an overview of the BMPs that would be implemented to prevent soil erosion and discharge of other construction-related pollutants that could contaminate nearby water resources. Permittees are further required to conduct annual monitoring and reporting to ensure that BMPs are correctly implemented and effective in controlling the discharge of stormwater-related pollutants.

Sustainable Groundwater Management Act

The Sustainable Groundwater Management Act of 2014 (SGMA) is a comprehensive three-bill package that Governor Jerry Brown signed into California state law in September 2014. The SGMA provides a framework for sustainable management of groundwater supplies by local authorities, with a limited role for state intervention only if necessary to protect the resource. The plan is intended to ensure a reliable groundwater water supply for California for years to come. SGMA requires the formation of local groundwater sustainability agencies (GSA), which are required to adopt groundwater sustainability plans (GSPs) to manage the sustainability of groundwater basins. GSAs for all high- and medium-priority basins, as identified by the California Department of Water Resources (DWR), must adopt a GSP, or submit an alternative to a GSP. SGMA also requires governments and water agencies of high- and medium-priority basins to halt overdraft and bring groundwater basins into balanced levels of pumping and recharge.

The project overlies the Kings Subbasin of the San Joaquin Valley Groundwater Basin, which is designated as a high-priority basin (DWR 2020). The Kings Subbasin GSAs developed and submitted its initial GSPs to DWR in January 2020, but they GSPs were deemed incomplete. The Kings Subbasin GSA submitted its revised GSPs in July 2022. In March 2023, DWR announced the GSPs for the Kings Subbasin, which includes the McMullin Area GSA and 6 other GSAs, were recommended for approval.

A.10.3 Local

Regionwide Stormwater Permit

The Central Valley Water Board adopted a Regionwide MS4 Permit (Order R5-2016-0040) on June 23, 2016. The permit regulates discharges of stormwater and authorized non-storm water from MS4s. Owners or operators of large and medium MS4s are expected to enroll under this order as their current individual MS4 Permits expire. Owners or operators of small regulated MS4s currently enrolled under the State Water Board's Statewide General Phase II Small MS4 Permit may voluntarily enroll under this order.

Fresno County General Plan

The 2024 Fresno County General Plan Policy Document includes policies associated with hydrology and water quality (Fresno County 2024).

- **Policy PF-E.16.** The County shall minimize sedimentation and erosion through control of grading, cutting of trees, removal of vegetation, placement of roads and bridges, and use of off-road vehicles. The County shall discourage grading activities during the rainy season, unless adequately mitigated, to avoid sedimentation of creeks and damage to riparian habitat.
- **Policy PF-E.21.** The County shall require the use of feasible and practical best management practices (BMPs) to protect streams from the adverse effects of construction activities and shall encourage the urban storm drainage systems and agricultural activities to use BMPs.
- **Policy OS-A.20.** The County shall minimize sedimentation and erosion through control of grading, cutting of trees, removal of vegetation, placement of roads and bridges, and use of off-road vehicles. The County shall discourage grading activities during the rainy season unless adequately mitigated to avoid sedimentation of creeks and damage to riparian habitat.
- **Policy OS-A.26.** The County shall continue to require the use of feasible and practical best management practices to protect streams from the adverse effects of construction activities and urban runoff.

A.10.4 References

Fresno County. 2000. *Fresno County General Plan Policy Document*. October 3.

A.11 Land Use and Planning

A.11.1 Federal and State

No federal or state plans, policies, regulations, or laws related to land use are applicable to the project.

A.11.2 Local

The Fresno County General Plan designates the project site for General Industrial use (Fresno County 2024a). The site carries a County zoning designation of Heavy Industrial (M-3) (Fresno

County 2024b). The M-3 zone is applied to areas appropriate for heavy industrial uses engaged in the mechanical or chemical processing of materials or substances into new products, the assembling of component parts, or the blending of materials, including animal and poultry slaughtering, automobile assembly or recycling, machine shops, petroleum refining, and a variety of heavy manufacturing uses, which may require appropriate buffering from adjacent commercial and residential uses.

The Fresno County General Plan contains no goals or policies relevant to the proposed project.

A.11.3 References

Fresno County. 2024a. *General Plan Policy Document: General Plan Review and Revision*. Final Draft. February. Available: [fcgpr_general-plan_prd-county_01-12_24-clean.pdf](#) (fresnocountyca.gov). Accessed: March 11, 2024.

Fresno County. 2024b. *Fresno County Zoning Ordinance (Zoning Ordinance Update)*. February 2024. Available: <https://www.fresnocountyca.gov/files/sharedassets/county/v/3/public-works-and-planning/zoning-ordinance/zoning-ordinance-final.pdf>. Accessed: March 11, 2024.

A.12 Mineral Resources

A.12.1 Federal

No federal plans, policies, regulations, or laws related to mineral resources are applicable to the project.

A.12.2 State

California Surface Mining and Reclamation Act

The California Surface Mining and Reclamation Act (SMARA) of 1975 requires the State Geologist to classify land into Mineral Resource Zones (MRZs), according to the known or inferred mineral potential of the land. The Department of Conservation's Division of Mine Reclamation and the State Mining and Geology Board are jointly charged with ensuring proper administration to the act's requirements. The process is based solely on geology, without regard to existing land use or land ownership. The primary goal of mineral land classification is to ensure that the mineral potential of land is recognized before land-use decisions are made that could preclude mining.

A.12.3 Local

The Fresno County General Plan, Health and Safety Element, Section C: *Mineral Resources*, contains policies relevant to the proposed project (Fresno County 2024).

- **Policy OS-C.2.** The County shall not permit land uses incompatible with mineral resource recovery within areas designated as Mineral Resource Zone 2 (MRZ-2). (See Figures 7-9, 7-10, and 7-11 in *General Plan Background Report* [Fresno County 2023].)
- **Policy OS-C.10.** The County shall not permit land uses that threaten the future availability of mineral resources or preclude future extraction of those resources.

A.12.4 References

Fresno County. 2024. *General Plan Policy Document: General Plan Review and Revision*. Final Draft. February. Available: [fcgpr_general-plan_prd-county_01-12_24-clean.pdf](#) ([fresnocountyca.gov](#)). Accessed: April 12, 2024.

A.13 Noise

A.13.1 Federal

Federal Transit Administration

While no federal regulations specifically apply to the remediation project, the Federal Transit Administration (FTA) has developed useful general assessment criteria for analyzing construction noise¹ and groundborne vibration (FTA 2018). These assessment criteria are based on the simultaneous operation of the two noisiest pieces of construction equipment at a project site (Table A-2).

Table A-2. Federal Transit Administration General Assessment Criteria for Construction Noise

Land Use	1-hour LA _{eq} (dBA)	
	Day	Night
Residential	90	80
Commercial	100	100
Industrial	100	100

Source: FTA 2018.

Notes: An A-weighted decibel (dBA) is an overall frequency-weighted sound level in decibels that approximates the frequency response of the human ear. The dBA scale is the most widely used scale for environmental noise assessment. A 1-hour A-weighted equivalent sound level (LA_{eq}) is the energy average of A-weighted sound levels occurring during a 1-hour period.

FTA has also developed guidelines for the assessment of groundborne vibration effects (FTA 2018). While these criteria were primarily developed for assessing groundborne vibration from rail operations, they are also recommended for the assessment of potential construction impacts. Two types of potential impact are considered: (1) annoyance and interference, and (2) building damage. Table A-3 summarizes FTA's criteria for assessing annoyance and interference, and Table A-4 summarizes FTA's criteria for assessing building damage.

¹ Noise is defined as sound that is loud, unpleasant, unexpected, or otherwise undesirable.

Table A-3. FTA Groundborne Vibration Impact Criteria for Annoyance and Interference

Land Use Category	Groundborne Vibration Impact Levels (VdB re 1 micro-inch/sec)		
	Frequent Events ^a	Occasional Events ^b	Infrequent Events ^c
Category 1: Buildings where vibration would interfere with interior operations	65 VdB ^d	65 VdB ^d	65 VdB ^d
Category 2: Residences and buildings where people normally sleep	72 VdB	75 VdB	80 VdB
Category 3: Institutional land uses with primarily daytime use	75 VdB	78 VdB	80 VdB

Source: FTA 2018.

VdB = vibration velocity decibels.

- a. *Frequent events* are defined as more than 70 vibration events from the same source per day. Most rapid transit projects fall into this category.
- b. *Occasional events* are defined as between 30 and 70 vibration events from the same source per day. Most commuter trunk lines have operations in this range.
- c. *Infrequent events* are defined as fewer than 30 vibration events of the same kind per day. This category includes most commuter rail branch lines.
- d. This criterion limit is based on levels that are acceptable for most moderately sensitive equipment, such as optical microscopes. For equipment that is more sensitive, a detailed vibration analysis must be performed.

Table A-4. FTA Groundborne Vibration Impact Criteria for Building Damage

Building/ Structural Category	PPV, in/sec	Approximate L _v , VdB
I. Reinforced-concrete, steel or timber (no plaster)	0.5	102
II. Engineered concrete and masonry (no plaster)	0.3	98
III. Non-engineered timber and masonry buildings	0.2	94

Source: FTA 2018.

Notes: PPV = peak particle velocity (A measurement of ground vibration, defined as the maximum speed at which a particle in the ground is moving, expressed in inches per second [in/sec]); L_v = vibration velocity level (The root-mean-square velocity amplitude for measured ground motion, expressed in decibels. The reference velocity is 1 micro-inch per second. Vibration velocity decibels are denoted VdB to differentiate them from airborne noise decibels.); VdB = vibration velocity decibels.

A.13.2 State

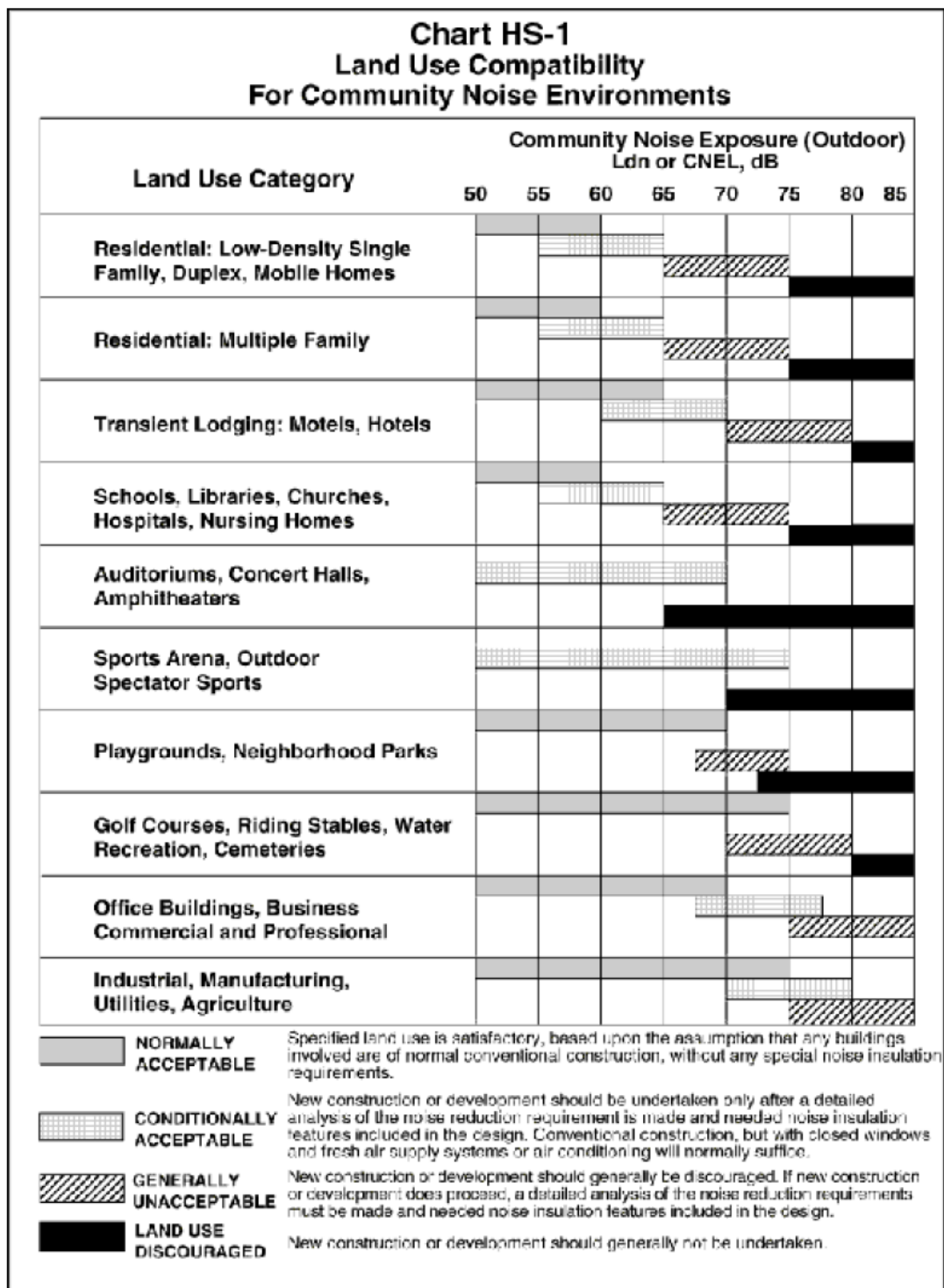
No state plans, policies, regulations, or laws related to noise and vibration are applicable to the project.

A.13.3 Local

Fresno County General Plan

Section G. *Noise*, of the Health and Safety Element of the Fresno County General Plan (Fresno County 2000) contains policies related to noise referenced in General Plan Chart HS-1, recreated as Table A-5 herein.

- **Policy HS-G.6.** The County shall regulate construction-related noise to reduce impacts on adjacent uses in accordance with the County's Noise Control Ordinance.
- **Policy HS-G.8.** The County shall evaluate the compatibility of proposed projects with existing and future noise levels through a comparison to Chart HS-1, "Land Use Compatibility for Community Noise Environments."

Table A-5. Fresno County General Plan Chart HS-1, Land Use Compatibility for Community Noise Environments

Fresno County Code of Ordinances

According to Section 8.40.060 of the Fresno County Code of Ordinances, *Noise source exemptions*, noise sources associated with construction are exempt from the noise standards, provided such activities do not take place before 6:00 a.m. or after 9:00 p.m. on any day except Saturday or Sunday, or before 7:00 a.m. or after 5:00 p.m. on Saturday or Sunday. Outside of the exempted hours, the noise standards from Chapter 8.40, *Noise Control*, of the County's municipal code (based on FTA standards and summarized in Table A-6) would apply. In addition, Section 8.40.040 of the code provides exterior noise standards and states that it is "unlawful for any person... at any location within the unincorporated area of the county, to create any noise, or to allow the creation of any noise, on property owned, leased, occupied or otherwise controlled by such person which causes the exterior noise level when measured at any affected single- or multiple-family residence, school, hospital, church or public library situated in either the incorporated or unincorporated area to exceed the noise level standards."

Table A-6. Fresno County Exterior Noise Standards

Category (Noise Metric Descriptor)	Cumulative Number of Minutes in Any One Hour	Noise Level Standards, dBA	
		Daytime (7:00 a.m. to 10:00 p.m.)	Nighttime (10:00 p.m. to 7:00 a.m.)
1 (L ₅₀)	30	55	45
2 (L ₂₅)	15	60	50
3 (L _{8.33})	5	65	55
4 (L _{1.67})	1	70	60
5 (L _{max})	0	75	65

Source: FTA 2018.

Notes: L_{xx} = percentile exceeded sound level (describes the sound level exceeded for a given percentage of a specified period. For example, the L₂₅ is the sound level exceeded 25 percent of the time [such as 15 minutes per hour]); L_{max} = the maximum sound level measured during a given measurement period; dBA = A-weighted decibel.

In the event the measured ambient noise level exceeds the applicable noise level standard in any category above, the applicable standard shall be adjusted so as to equal the ambient noise level.

Each of the noise level standards specified above shall be reduced by five dBA for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.

If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level can be measured, the noise level measured while the source is in operation shall be compared directly to the noise level standards.

A.13.4 References

Federal Transit Administration (FTA). 2018. *Transit Noise and Vibration Impact Assessment Manual*. Final. FTA Report No. 0123. September 2018. Washington, DC. Prepared by Volpe National Transportation Systems Center. Cambridge, MA.

A.14 Population and Housing

No federal, state, or local plans, policies, regulations, or laws related to population and housing are applicable to the project.

A.15 Public Services

No federal, state, or local plans, policies, regulations, or laws related to public services are applicable to the project.

A.16 Recreation

No federal, state, or local plans, policies, regulations, or laws related to recreation are applicable to the project.

A.17 Transportation

A.17.1 Federal

No federal or state plans, policies, regulations, or laws related to transportation are applicable to the project.

A.17.2 Local

Fresno Council of Governments

The Fresno Council of Governments (Fresno COG), a voluntary association of 16 local governments, is the state-designated regional transportation planning agency for Fresno County. The *2022 Regional Transportation Plan and Sustainable Communities Strategy* (Fresno COG 2022) includes the following relevant policies.

- **Policy 11:** Prioritize investment in and promote multimodal safety measures to reduce traffic fatalities and incidents in the region.
- **Policy 12:** Promote enhanced Transportation Systems Management (TSM) and Transportation Demand Management (TDM) strategies to reduce congestion and vehicle miles traveled.

Fresno County General Plan

The Fresno County General Plan Transportation and Circulation Element includes the following policy applicable to the project (Fresno County 2024).

- **Policy TR-A.25.** Vehicles Miles Traveled (VMT) Threshold Projects that would generate or attract more than 110 daily vehicle trips shall be evaluated for a transportation VMT impact on an individual basis. The threshold of significance shall be 87 percent of the countywide average rate of VMT. Any individual project resulting in VMT that exceeds 87 percent of the countywide average shall be required to implement project-specific mitigation measures aimed at reducing VMT generated by the project.

A.17.3 References

Fresno County. 2024. *General Plan Policy Document: General Plan Review and Revision*. Final Draft. February. Available: [fcgpr_general-plan_prd-county_01-12_24-clean.pdf](#) (fresnocountyca.gov). Accessed: April 12, 2024.

Fresno Council of Governments (Fresno COG) .2022. *2022 Regional Transportation Plan and Sustainable Communities Strategy*. Adopted July 28, 2022. Available: <https://www.planfresno.com/sustainable-communities-strategies-fall-outreach/>. Accessed: April 15, 2024.

A.18 Tribal Cultural Resources

A.18.1 Federal

National Historic Preservation Act

Most regulations at the Federal level stem from the National Environmental Policy Act (NEPA) and historic preservation legislation such as the National Historic Preservation Act (NHPA) of 1966, as amended. NHPA established guidelines to "preserve important historic, cultural, and natural aspects of our national heritage, and to maintain, wherever possible, an environment that supports diversity and a variety of individual choice." The NHPA includes regulations specifically for Federal landholding agencies, but also includes regulations (Section 106) which pertain to all projects that are funded, permitted, or approved by any Federal agency and which have the potential to affect cultural resources. All projects that are subject to NEPA are also subject to compliance with Section 106 of the NHPA and NEPA requirements concerning cultural resources. Provisions of NHPA establish a National Register of Historic Places (The National Register) maintained by the National Park Service, the Advisory Councils on Historic Preservation, State Historic Preservation Offices, and grants-in-aid programs.

American Indian Religious Freedom Act and Native American Graves and Repatriation Act

The American Indian Religious Freedom Act recognizes that Native American religious practices, sacred sites, and sacred objects have not been properly protected under other statutes. It establishes as national policy that traditional practices and beliefs, sites (including right of access), and the use of sacred objects shall be protected and preserved. Additionally, Native American remains are protected by the Native American Graves and Repatriation Act of 1990.

Other Federal Legislation

Historic preservation legislation was initiated by the Antiquities Act of 1966, which aimed to protect important historic and archaeological sites. It established a system of permits for conducting archaeological studies on Federal land, as well as setting penalties for noncompliance. This permit process controls the disturbance of archaeological sites on Federal land. New permits are currently issued under the Archeological Resources Protection Act (ARPA) of 1979. The purpose of ARPA is to enhance preservation and protection of archaeological resources on public and Native American

lands. The Historic Sites Act of 1935 declared that it is national policy to “Preserve for public use historic sites, buildings, and objects of national significance.”

A.18.2 State

Assembly Bill 52 of 2014

AB 52 expanded CEQA by defining a new resource category, “tribal cultural resources.” AB 52 establishes that “a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment” (Public Resources Code [PRC] Section 21084.2). AB 52 further states when feasible, the lead agency shall establish measures to avoid impacts that would alter the significant characteristics of a tribal cultural resource (PRC Section 21084.3). PRC Section 21074 (a)(1)(A) and (B) defines tribal cultural resources as “sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American Tribe,” and meets either of the following criteria:

- a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in PRC Section 5020.1(k).
- b. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of PRC Section 5024.1. In applying the criteria set forth in subdivision (c) of PRC Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American Tribe.

In recognition of California Native American tribal sovereignty and the unique relationship of California local governments and public agencies with California Native American tribal governments and with respect to the interests and roles of project proponents, it is the intent AB 52 to accomplish the following:

1. Recognize that California Native American prehistoric, historic, archaeological, cultural, and sacred places are essential elements in tribal cultural traditions, heritages, and identities.
2. Establish a new category of resources in CEQA called “tribal cultural resources” that considers the tribal cultural values in addition to the scientific and archaeological values when determining impacts and mitigation.
3. Establish examples of mitigation measures for tribal cultural resources that uphold the existing mitigation preference for historical and archaeological resources of preservation in place, if feasible.
4. Recognize that California Native American tribes may have expertise with regard to their tribal history and practices, which concern the tribal cultural resources with which they are traditionally and culturally affiliated (because CEQA calls for a sufficient degree of analysis, tribal knowledge about the land and tribal cultural resources at issue should be included in environmental assessments for projects that may have a significant impact on those resources).
5. In recognition of their governmental status, establish a meaningful consultation process between California Native American tribal governments and lead agencies, respecting the interests and roles of all California Native American tribes and project proponents, and the level of required confidentiality concerning tribal cultural resources, early in the CEQA environmental

review process, so that tribal cultural resources can be identified, and culturally appropriate mitigation and mitigation monitoring programs can be considered by the decision-making body of the lead agency.

6. Recognize the unique history of California Native American tribes and uphold existing rights of all California Native American tribes to participate in, and contribute their knowledge to, the environmental review process pursuant to CEQA.
7. Ensure that local and tribal governments, public agencies, and project proponents have information available, early in CEQA environmental review process, for purposes of identifying and addressing potential adverse impacts to tribal cultural resources and to reduce the potential for delay and conflicts in the environmental review process.
8. Enable California Native American tribes to manage and accept conveyances of, and act as caretakers of, tribal cultural resources.
9. Establish that a substantial adverse change to a tribal cultural resource has a significant effect on the environment.

AB 52 also establishes a formal consultation process for California tribes regarding those resources. The consultation process must be completed before a CEQA document can be certified or adopted. AB 52 requires that lead agencies “begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project.” Native American tribes to be included in the process are those that have requested notice of projects proposed in the jurisdiction of the lead agency.

A.18.3 Local

County of Fresno General Plan

The project site is located within the City of Fresno’s SEDA, outside City limits but within the City’s Sphere of Influence. Thus, the project site would be located under the County of Fresno’s jurisdiction. Although school districts, including CUSD, are exempt from local land use controls, the following goals and policies from the County of Fresno’s 2000 General Plan, Open Spaces and Conservation Element, indicate the project’s furtherance of local tribal cultural resource planning efforts.

- **Policy OS-J.6:** The County shall solicit the views of the local Native American community in cases where development may result in disturbance to sites containing evidence of Native American activity and/or sites of cultural importance.

A.19 Utilities and Service Systems

No regulations, ordinances, laws, or standards related to utilities and service systems are applicable to the project.

A.20 Wildfire

A.20.1 Federal

No federal plans, policies, regulations, or laws relevant to wildfire are applicable to the project.

A.20.2 State

California Fire Code

The California Fire Code (California Code of Regulations [CCR] Title 24, Part 9) incorporates the International Fire Code and necessary California amendments. It prescribes regulations consistent with nationally recognized good practices to safeguard life and property from the hazards of fire, explosion, and dangerous conditions arising from the storage, handling, and use of hazardous materials, as well as provisions to assist emergency response personnel.

Fire Hazard Severity Zones

Public Resources Code (PRC) Sections 4201–4204, and Government Code Sections 51175–51189, require identification of fire hazard severity zones (FHSZs) within California. Fire prevention areas under state jurisdiction are *state responsibility areas*. In state responsibility areas, the California Department of Forestry and Fire Protection (CAL FIRE) delineates three hazard ranges: moderate, high, and very high; whereas *local responsibility areas*, which are under the jurisdiction of local entities (e.g., cities and counties), are only required to identify Very High FHSZs (VHFHSZ). The hazard ranges are measured quantitatively, based on vegetation, topography, weather, crown fire potential (a fire's tendency to burn upwards into trees and tall brush), and ember production and movement.

A.20.3 Local

No local plans, policies, regulations, or laws related relevant to wildfire are applicable to the project.