Locke Multi-Benefit Flood Risk Reduction Planning Project Initial Study/Proposed Mitigated Negative Declaration

Prepared for:

Reclamation District 369
P.O. Box 987, Walnut Grove, CA 95690

Contact:

Clarence Chu
President
916-813-7037

Prepared by:

GEI Consultants, Inc.
11010 White Rock Road, Suite 200
Rancho Cordova, CA 95670

Contact:

Jeff Twitchell
Project Manager
916-990-2569

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PROPOSED
MITIGATED NEGATIVE DECLARATION

Project	**Locke Multi-Benefit Flood Risk Reduction Planning Project**
Lead Agency:	**RD 369**

PROJECT DESCRIPTION

The levees protecting the community of Locke do not meet modern levee design standards to provide a 100-year level of flood protection. The proposed project consists of collection of data to prepare a plan for multi-benefit flood risk reduction, ecosystem restoration and recreation enhancements within and adjoining the Delta Meadows State Park Property and the nearby Delta Cross Channel. As part of the planning effort to identify multi-benefit flood risk reduction, RD 369 proposes to conduct geotechnical explorations of up to 16 borings along the waterside levee toe, levee crest, and landside levee toe of the TMXS-R levee to evaluate the condition of the structure and composition within the Meadows Cross Slough right bank levee (segment TMXS-R).

In addition, the proposed project would remove an existing 10-inch-diameter temporary pipeline located over the top of the levee crown currently used for draining a 221-acre landside drainage area and replace it with a 12-inch-diameter pipeline buried through the top of the levee above the 100-year design water surface elevation. During replacement of the existing pipeline, the project would remove two abandoned, buried corroded steel pipelines within the levee segment. Due to their corroded state, these pipelines pose a flood threat to the existing RD 369 levee embankment and area protected by the RD 369 levee system, including the community of Locke. The project would also remove and replace an existing 5 horsepower (HP) electric pump with a 5 to- 7.5 HP pump in the same location. Aggregate base would be added to the surface of the levee crown road after geotechnical borings and pipeline replacement are completed. The proposed project would trim and remove trees and shrubs where activities require clearance for access by geotechnical exploration equipment and long-term access for RD 369 and State Park vehicles. Finally, the proposed project would include bathymetric surveys within the waterways adjacent to the TMXS-R levee to collect information on underwater features.

FINDINGS

An Initial Study (IS) has been prepared under the California Environmental Quality Act to assess the project's potential effects on the physical environment and the significance of those effects. Based on the analysis in the IS and substantial evidence in the record, it has been determined that the proposed project would not have any significant adverse effects on the physical environment (impacts) after implementation of mitigation measures. This conclusion is supported by the following findings:

1. The proposed project would have no impacts on aesthetics, agriculture and forestry, land use and planning, mineral resources, population and housing, public services, and wildfire.

2. The proposed project would have less-than-significant impacts on air quality, energy, greenhouse gas emissions, noise, recreation, transportation, and utilities and service systems.
3. The proposed project would have potentially significant impacts on biological resources, cultural resources, geology and soils, hydrology and water quality, and tribal cultural resources, but mitigation measures are proposed to avoid or reduce these impacts to less than significant levels.
4. The proposed project, with mitigation, would not result in a cumulatively considerable incremental contribution to any significant cumulative impact.

The following mitigation measures would be implemented by RD 369 to avoid, minimize, rectify, reduce, eliminate, or compensate for potentially significant environmental impacts. Implementation of the mitigation measures presented in this IS would reduce the potentially significant environmental impacts of the proposed project to less than significant levels.

Mitigation Measure BIO-1: Conduct Rare Plant Survey and Avoid, Transplant, Salvage, Cultivate, or Re-establish Species.

Conduct a Rare Plant Survey Prior to the Start of Ground Disturbing Activities for Special-status Plant Species. A qualified botanist shall be retained to perform focused surveys to determine the presence or absence of special-status plant species that were determined to have the potential to occur in and adjacent to (within 100 feet, where appropriate) the proposed impact area, including new site access routes. These surveys shall be conducted in accordance with CDFW *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (2009) or currently accepted resource agency protocols. These guidelines require that rare plant surveys be conducted at the proper time of year when rare or endangered species are both evident and identifiable. Field surveys shall be scheduled to coincide with known flowering periods, and/or during appropriate developmental periods that are necessary to identify the plant species of concern. If no special-status plant species are identified, no further actions are needed prior to ground disturbing activities to protect plant species.

If any state listed, federally listed, and/or CNPS List 1 or CNPS List 2 plant species are found within 100 feet of proposed impact areas during the surveys, these plant species shall be avoided to the greatest extent possible. If avoidance is not possible, populations shall be mitigation through transplant, salvage, cultivate, or re-establish the species at suitable sites (if feasible), or through the purchase of credits from an approved mitigation bank, if available, at a minimum 1:1 ratio.

Any special-status plant species that are identified adjacent to the project area, but not proposed to be disturbed by the proposed project, they shall be protected by barrier fencing to provide that ground disturbing activities and material stockpiles do not impact any special-status plant species. These avoidance areas shall be identified on proposed project plans.

Timing: Before and during project activities.

Responsibility: Reclamation District 369

Mitigation Measure BIO-2: Minimize Effects on Biological Resources.

1. **Conduct a Worker Environmental Awareness Program (WEAP) Trainings to All Staff That Will be On-site During Project Activities.** A qualified biologist shall provide WEAP training to cover species identification, habitat, life history, and conservation measures for all special-status species with potential to occur within the project site. Training may consist of showing a video prepared by a qualified biologist, or an in-person presentation by a qualified biologist. In addition to the video or in-person presentation, training may be supplemented with the distribution of approved brochures and other materials that describe protected resources and methods for avoiding effects. The contractor shall be responsible for ensuring that all new personnel have received the WEAP training and is documented for reporting purposes. For multi-year projects, the WEAP shall be updated on a yearly basis to ensure project applicability and any lessons learned. All personnel are required to re-take the WEAP yearly.

2. **Biological Monitoring**. A designated and qualified biological monitor shall be present for all ground disturbing or vegetation removal activities. Depending on the timing of project activities after initial disturbance, a monitor may be necessary. Species-specific measures below delineate out those timings.

3. **Vehicle Speed.** Project-related vehicles shall observe a 10-mile-per-hour speed limit within project areas and along haul/access routes, except on county roads and State and federal highways.

4. **Site Best Management Practices.** Appropriate site-specific best management practices (e.g., fencing and other erosion controls) shall be implemented to avoid accidental encroachment of vehicles and personnel and to minimize and control runoff, erosion, and sediment deposition in aquatic habitat.

5. **Spill Protection.** Every reasonable precaution shall be implemented to protect soils and waters from pollution with fuels, oils, and other harmful materials. In the event of a spill in or adjacent to aquatic habitat (including seasonal wetlands), work shall stop, and the spill shall be addressed immediately with appropriate equipment to contain and absorb the spilled material.

6. **Staging Areas.** Any and all heavy equipment, vehicles, and supplies shall be stored at the designated staging areas at the end of each work period. Vehicles and equipment shall be properly maintained to prevent contamination of soil or water from external grease and oil or from leaking hydraulic fluid, fuel, oil, and grease. Vehicles and equipment shall be checked daily for leaks. If leaks are found, the equipment shall be removed from the site and shall not be used until the leaks are repaired. Equipment shall be refueled and serviced at designated refueling and staging sites located where a spill shall not drain directly toward aquatic habitat. Appropriate containment materials shall be installed to collect any discharge, and adequate materials for spill cleanup shall be maintained onsite.

7. **Revegetate All Disturbed Natural Surfaces.** After completion of ground disturbing activities, all disturbed soil surfaces shall be revegetated within the same implementation season that disturbance occurs. These areas shall be recontoured, if appropriate, and revegetated with appropriate native plant species to promote restoration of the area to pre-project conditions or better.

8. **Erect and Maintain High-visibility Fencing during Ground Disturbing Activities to Protect Sensitive Biological Resource Areas.** Before beginning ground disturbance activities for the pipeline removal and replacement, high-visibility fencing shall be erected to protect areas of sensitive biological resources that are located adjacent to project areas that can be avoided. The fencing shall restrict encroachment of personnel and equipment into these areas. The fencing may be removed only when the ground disturbing activities within a given area is completed and shall be maintained by the contractor.

9. **Geotechnical Investigations**. Geotechnical investigations and vegetation removal along the TMXS-R levee access route can proceed prior to installation of wildlife exclusionary fencing under the direct guidance of a qualified wildlife biologist. The wildlife biologist shall use their professional discretion for full-time monitoring or spot checking based on the time of the year, project activities, and the potential for special-status species presence.

   Timing: Before, during, and after project activities.

   Responsibility: Reclamation District 369

Mitigation Measure BIO-3: Minimize Effects to Crotch Bumble Bee.

Conduct Pre-ground Disturbing Activities Surveys for Active Nests within the Ground Disturbance Footprint. The footprint of ground disturbance around the pipeline removal and installation shall be surveyed prior to project activities for any active bumble bee colony nests by a qualified biologist. Geotechnical investigation haul routes shall also be surveyed prior to driving over undisturbed land covers to check for active nests. Queen bumble bees choose a new nest location each year and nests are easiest to identify during the Colony Active Period (April to August), surveys shall not be conducted during the overwintering timeframe as North American bumble bee habitat preferences are poorly understood. If a nest is identified as being active and is of a candidate bumble bee species, an appropriate no disturbance buffer zone shall be established around the nest until the gyne flight season and the nest becomes inactive. Buffer zones shall be determined in coordination with CDFW.

Timing: Before project activities

Responsibility: Reclamation District 369

Mitigation Measure BIO-4: Minimize Effects to Monarch Butterflies.

Timing of Vegetation Management. Vegetation removal and management should be conducted to the greatest extent possible within the Management Timing Zone of

November 15th to March 15th as recommended by Xerces for Priority #1 Early Breeding Zone.

Timing: During and after project activities.

Responsibility: Reclamation District 369

Mitigation Measure BIO-5: Minimize Effects to Valley Elderberry Longhorn Beetle.

The following measures shall be implemented in accordance with the Framework for Assessing Impacts to the Valley Elderberry Longhorn Beetle (USFWS 2017) to reduce effects on valley elderberry longhorn beetle:

1. **Fencing**. All areas to be avoided during ground disturbing activities shall be fenced and/or flagged as close to ground disturbing limits as feasible.

2. **Avoidance area.** To the extent feasible, activities that may damage or kill an elderberry shrub (e.g., trenching, paving, etc.) shall be avoided within 20 feet from the dripline of the shrub, depending on the type of activity.

3. **Ground Disturbance Monitoring.** A qualified biologist shall monitor the work area at appropriate intervals to assure that all avoidance and minimization measures are implemented.

4. **Timing.** To the extent feasible, activities within 165 feet of an elderberry shrub shall be conducted outside of the valley elderberry longhorn beetle flight season (March to July).

5. **Trimming.** To the extent feasible, elderberry shrub trimming shall occur between November and February and avoid the removal of any branches or stems greater than or equal to 1-inch in diameter.

6. **Chemical Usage.** Herbicides shall not be used within the dripline, and insecticides shall not be used within 100 feet of an elderberry shrub. All chemicals shall be applied using a backpack sprayer or similar direct application method.

7. **Mowing.** Weed removal with machinery within the dripline of elderberry shrubs shall be limited to the season when adults are not active (August to February) and shall avoid damaging the shrub.

8. **Transplanting.** To the extent feasible, elderberry shrubs shall be transplanted when the shrubs are dormant (November through the first 2 weeks in February) and after they have lost their leaves. Exit-hole surveys shall be completed immediately before transplanting. A qualified biologist shall be on-site for the duration of transplanting activities to assure compliance with avoidance and minimization measures and other conservation measures.

9. **Compensation.** Effects on elderberry shrubs shall be compensated at a minimum 1:1 ratio through the purchase of credits from a USFWS-approved mitigation bank, onsite restoration, or in-lieu fee program.

Timing: Before, during and after project activities

Responsibility: Reclamation District 369

Mitigation Measure BIO-6: Avoid and Minimize Impacts to Special-status Fish Species.

1. **In-water Work Limited to July through October.** In water work shall be limited to the months of July through October when listed fish species are least likely to be present within the Delta to minimize chances of fish being present near the project area.

2. **No Machinery Shall be Driven into the Wetted Channel Area.** Machinery being used for project work shall be limited to dry upland areas only and shall not be driven within the wetted channel.

3. **Work Shall Only Occur During Daylight Hours.** In-water rock placement shall only occur during daylight hours, as most listed fish species tend to have increased activity at night. If any listed fish are seen near the work area, work shall cease immediately until fish have left the area.

4. **Installation of a Block Net or Turbidity Curtain.** If feasible, a block net or turbidity curtain shall be installed around the area where rock shall be placed to ensure fish are excluded from the work area.

Timing: During project activities

Responsibility: Reclamation District 369

Mitigation Measure BIO-7: Avoid and Minimize Impacts to Northwestern Pond Turtle and Its' Habitats.

1. **Initial Ground Disturbance Timing**. Initial ground disturbance (including vegetation removal and geotechnical boring) in suitable upland habitat within 500 feet of aquatic habitat for northwestern pond turtle shall be minimized to greatest extent feasible during the brumation season (December through February), when adult turtles may be in torpor and particularly susceptible to equipment strikes. The target period for riparian vegetation removal in these areas shall be fall (September through November), to the greatest extent practicable, when potential for turtle strikes and direct impacts on other special-status species are lowest.

2. If vegetation removal occurs outside the ideal timing for this species, a designated biological monitor will be present during all ground disturbance activities. Disturbance activities will occur at a speed that allows the designated monitor to scan for turtles in brumation, nest, and avoid direct impacts.

3. **Direct Impact Avoidance**. Measures shall be implemented to minimize potential for heavy equipment to destroy northwestern pond turtle nests and to encounter hatchling

turtles. Feasible measures may vary depending on site-specific circumstances and could include, but not be limited to:

a. Minimizing heavy equipment operation in upland habitat within 500 feet of aquatic habitat in February and March, when hatchling turtles emerge from nests and travel to aquatic habitat.

b. Placing artificial ground cover that prevents female turtles from excavating nests in most likely nesting areas where ground disturbing activities shall occur before the following hatchling turtle emergence period.

c. Fencing most likely nesting areas to exclude access by female turtles and/or enclose hatchlings after emergence. If active nests and hatchlings may be present, the fenced area shall be inspected daily by a qualified biologist and hatchling turtles shall be captured and relocated to suitable habitat at a pre-determined location.

4. **Monitoring**. A qualified biologist shall be present during initial ground disturbance, in-water work, and the hatchling emergence period to search for western pond turtles and minimize encounters with heavy equipment.

5. **Stop Work if a Northwestern Pond Turtle is Observed in Ground Disturbing Area and Allow to Leave the Ground Disturbing Area on Their Own or Have Qualified Biologist Capture and Relocate.** If northwestern pond turtles or nests are observed on land within the project footprint during project activities, the contractor shall stop work within approximately 200 feet of the turtle, and a qualified biologist shall be notified immediately. If possible, the turtle shall be allowed to leave on its own and the qualified biologist shall remain in the area until the biologist deems his or her presence no longer necessary to ensure that the turtle is not harmed. Alternatively, with prior CDFW approval, the qualified biologist may capture and relocate the turtle unharmed to suitable habitat at a pre-determined location.

6. **Unintentional Nests Uncovered**. If a northwestern pond turtle nest is unintentionally uncovered during project activities, work shall stop in the vicinity of the nest and appropriate next steps, depending on the circumstances, shall be determined by a qualified biologist. These may include fencing and buffering the nest and/or rescue, rehabilitation, and relocation of affected turtles.

7. **Daily In-water Work Timing and Disturbance.** Prior to in-water activities, water disturbance shall occur to allow turtles to move out of the area on their own accord. Water disturbance may include the use of an excavator bucket gently disrupting the surface of the water, it shall not include activities that could cause direct harm to aquatic species. Disturbance shall occur around 8 a.m. when turtles are about to begin basking. Wait at least 10 minutes after disturbance before beginning in-water activities to allow turtle movement out of area. If in-water activities stop for more than 45 min, in-water disturbance shall occur again to enable turtles to move out of harm's way.

Timing: Before and during project activities

Responsibility: Reclamation District 369

Mitigation Measure BIO-8: Minimize Effects on Giant Garter Snake.

1. **Clearance Surveys 24 Hours Prior to Ground Disturbing Activities**. Suitable upland habitat for giant garter snake within the project footprint around the pipeline removal and replacement shall be surveyed by a qualified biologist within 24 hours before on-site project activities begin. Additional surveys shall be conducted within 24 hours before initial ground disturbance begins. Surveys shall be repeated after any lapse in ground disturbing activity of 2 weeks or longer.

2. **Clearance Surveys and Monitoring for Geotechnical Activities.** Suitable upland habitat for giant garter snake shall be surveyed surrounding the locations of the geotechnical investigations with a 50-foot buffer. Since these project activities are very temporary with a minimal footprint, the qualified biologist shall clear the investigation location immediately prior to drilling activities. Any burrows, holes or cracks that are capable of a giant garter snake accessing or being present within shall be flagged and avoided by all geotechnical activities. A qualified biological monitor shall be present for all geotechnical activities.

3. **Conduct Initial Earth-movement Activities within Suitable Upland Habitat for Giant Garter Snake between May 1 and October 1.** When possible, initial ground-disturbing activities within suitable upland habitat for the giant garter snake shall occur between May 1 and October 1 for pipeline removal and replacement. Work in giant garter snake upland habitat may also occur between October 2 and November 1 or April 1 through April 30, provided that: (1) the project area is fenced off to prevent wildlife from moving into the project area and initial ground disturbance has already occurred; or (2) ambient air temperatures exceed approximately 75ºF during work and maximum daily air temperatures have exceeded approximately 75ºF for at least 3 consecutive days immediately preceding work. During these periods, giant garter snakes are more likely to be active in aquatic habitats and less likely to be found in upland habitats.

4. **Stop Work if a Giant Garter Snake is Observed in Ground Disturbing Area and Allow Snakes to Leave the Ground Disturbing Area on Their Own or Have Qualified Biologist Capture and Relocate Giant Garter Snake.** If a possible giant garter snake is observed in the project area, all work shall stop until the snake moves out of the area of ground disturbing activities and notification of the qualified biologist immediately shall occur. If possible, the snake shall be allowed to leave on its own volition, and the qualified biologist shall remain in the area until the biologist deems his or her presence is no longer necessary to ensure that the snake is not harmed. Alternatively, with prior CDFW and USFWS approval, the qualified biologist may capture and relocate the snake to suitable habitat at least 200 feet from the project area. Notification to CDFW and USFWS by telephone or email within 24 hours of a giant garter snake observation during ground disturbing activities shall be reported. If the snake does not voluntarily leave the project area and cannot be captured and relocated unharmed, all project activities within approximately 200 feet of the snake shall stop to prevent harm to the snake, and CDFW and USFWS shall be

consulted to identify next steps and the measures recommended by CDFW and USFWS shall be implemented before resuming ground disturbing activities in the area.

5. **Restore All Suitable Giant Garter Snake Habitat Subject to Temporary Ground-disturbance to Pre-project Conditions.** After pipeline removal and replacement activities are complete, all suitable giant garter snake habitat subject to temporary earth-movement, shall be restored to pre-project conditions. These areas shall be recontoured, if appropriate, and revegetated with appropriate native plant species to promote restoration of the area to pre-project conditions or better. Appropriate methods and plant species used to revegetate such areas shall be determined in consultation with USFWS and CDFW.

   Timing: Before, during, and after project activities

   Responsibility: Reclamation District 369

Mitigation Measure BIO-9a: Conduct Focused Surveys for Nesting Special-status Birds and Avoid Impacts.

Nesting bird surveys listed below shall be required prior to all project activities, including geotechnical investigations, that occur within the nesting bird season, from February 1 through August 31.

1. **Conduct Vegetation Removal Outside of Nesting Bird Season.** To the extent feasible, vegetation removal shall be conducted between September 16 and January 31, outside of the nesting bird season.

2. **Conduct Pre-project Activity Surveys for Active Nests of Special-status Birds in Areas of Suitable Habitat.** If project activities that could affect suitable habitat for special-status birds cannot be conducted outside of the respective nesting seasons, pre-project activity surveys for nesting birds shall be conducted. Surveys of all potential nesting habitat in the area shall be conducted by a qualified biologist during the nesting season. Surveys shall be conducted within suitable nesting habitat that could be affected by project activities and shall include a minimum buffer of 300-feet (or larger area if required by established survey protocol) surrounding these areas. Where appropriate, pre-activity surveys shall be conducted according to established survey protocols or guidelines including, but not limited to, the following:

   a. Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015 (CDFW 2015)

   b. Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (SHTAC 2000)

   c. Staff Report on Burrowing Owl Mitigation (California Burrowing Owl Consortium 1993)

If no established survey protocol exists, the qualified biologist shall complete surveys no more than 1 week prior to the start of the activity, or no more than 2 weeks prior to the restart of the activity after the activity has lapsed. If no nesting birds are detected during pre-activity surveys, no additional mitigation measures are required.

Timing: Before and during project activities

Responsibility: Reclamation District 369

Mitigation Measure BIO-9b: If Avoiding Project-related Effects on Nesting Special-status Birds is Infeasible, Implement Minimization Measures.

If the measures described above in Mitigation Measure BIO-9a have been completed and avoiding effects on nesting special-status birds is infeasible the measures described below shall be implemented to minimize effects of the project on nesting special-status birds, such that there is no direct loss of individuals of these species or project-related nest failure.

1. **Establish, Maintain, and Monitor Buffers Around Active Nest.** If any active nests, or behaviors indicating active nests, are observed, appropriate-sized avoidance buffers shall be established around the nest sites, to avoid nest failure resulting from project activities. The size and shape of the buffer shall depend on the species, nest location, nest stage, and specific project activities to be performed while the nest is active. The buffer shall be expanded if the birds are exhibiting agitated behavior, or the buffers may be adjusted (reduced) if a qualified biologist determines it would not be likely to adversely affect the nest. If required, buffers shall be marked in the field by a qualified biologist using temporary fencing, high-visibility flagging, or other means that are equally effective in clearly delineating the buffer. Standard nest buffer sizes for migratory and common bird species include: 50 to 100 feet for passerine species, and 250 to 300 feet for raptors. Nesting special-status avian species, such as Swainson's hawk, shall have a nest buffer up to a half a mile.

2. **Monitoring Nest Activity**. Nest monitoring shall be conducted by a qualified biologist, either continuously or periodically during work, to confirm that project activity is not resulting in detectable adverse impacts on nesting birds or their young. A determination on monitoring frequency shall be based on environmental conditions such as physical barriers, project activities, and species tolerance to project activities. The qualified biologist shall be empowered to stop all project activities that, in the biologist's opinion, threaten to cause unanticipated and/or unpermitted adverse effects on special-status wildlife (e.g., nest abandonment). If project activities are stopped, the qualified biologist shall consult with CDFW to determine appropriate measures that shall be implemented to avoid adverse effects.

3. **Work Within Established Buffer Zones**. No project activity shall commence within the buffer areas until a qualified biologist has determined that the young have fledged or the nest site is otherwise no longer in use. If work must be conducted within a stated buffer zone a qualified biologist shall provide continuous monitoring to confirm that the project activity is not resulting in detectable adverse impacts.

Timing: Before and during project activities

Responsibility: Reclamation District 369

Mitigation Measure BIO-10: Minimize Effects on Western Red Bat.

1. **Vegetation Removal During Seasonal Periods of Bat Activity.** All vegetation shall be immediately inspected for bat occupancy by a qualified biologist prior to the initial step of trimming. If vegetation removal occurs from April 1 through October 31, bat roosting habitat assessment and surveys shall be conducted prior to tree trimming and removal. If vegetation is occupied by bats in hibernaculum, a 300-foot buffer shall in established with no project activities allowed in until the bats have vacated on their own accord.

2. **Two-step Tree Removal Process.** If tree trimming and removal occur during the hibernaculum seasonal period of bat activity, from November 1 through March 31, a two-step tree removal process can occur without additional bat roosting surveys being conducted. Two-step tree removal shall be conducted over two consecutive days. The first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only; limbs with cavities, crevices or deep bark fissures shall be avoided. The second day the entire tree shall be removed.

3. **Bat Habitat Mitigation Program**. Bat roosts impacted by project-related effects shall be mitigated at a minimum 1:1 ratio through the purchase of credits at a CDFW approved mitigation bank, in-lieu fee program, installation of bat boxes, and/or onsite restoration activities. Mitigation as defined in a resource agency issued permit relevant to special-status bats may be used to fulfill this measure.

4. **Roosting Bat Habitat Assessment and Surveys.** If vegetation removal shall occur within the bat maternity activity period, from May 1 through August 31, a habitat assessment shall be conducted a minimum of 30 to 90 days prior to tree removal and shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, exfoliating bark, suitable canopy for foliage roosting species) on all trees slated for tree trimming or removal. If suitable habitat is identified on the impacted trees the qualified biologist can either conduct night emergence surveys or complete a visual examination of roost features that establishes absence of roosting bats. If bats are identified, coordination with CDFW on if the two-step tree removal process can proceed shall occur. A temporary 300-foot buffer shall be established with no project activities allowed until the bats have vacated on their own accord and confirmed by a qualified biologist, or an alternative is determined by CDFW.

Timing: Before and during project activities

Responsibility: Reclamation District 369

Mitigation Measure BIO-11: Minimize Effects on American Badger.

1. **If American Badger Dens Are Located in Clearance Surveys.** If an American badger den is identified during pre-project activity surveys, no less than 14 days and no more than 30 days prior to the start of ground disturbing activities, efforts to determine activity using wildlife camera trapping or evening monitoring shall be implemented. No further actions are required if dens are determined to be inactive.

2. **Den Buffers.** If dens identified in the clearance surveys are determined to be occupied by American badgers, they will be avoided with a buffer of 50 feet for occupied dens and 200 feet for natal dens. Buffers will remain established until it is determined through non-invasive means that individuals occupying the den have dispersed.

3. **Stop Work if an American Badger is Observed in Project Area and Allow Species to Leave on Their Own.** If an American badger is observed in the project area, all work shall stop until the species moves out of the area of ground disturbing activities and notification to the qualified biologist immediately shall occur. The badger shall be allowed to leave on its own volition, and the qualified biologist shall remain in the area until the biologist deems his or her presence no longer necessary to ensure that the species is not harmed.

   Timing: Before and during project activities

   Responsibility: Reclamation District 369

Mitigation Measure BIO-12: No Net Loss of Sensitive Natural Communities and Aquatic Resources.

No Net Loss of Sensitive Natural Communities or Aquatic Resources. No net loss of sensitive natural communities, including aquatic resources, would be achieved through impact avoidance, minimization, and/or compensatory mitigation. Mitigation for permanent impacts on sensitive natural communities shall be provided at a minimum 1:1 ratio. Mitigation can be achieved through on-site restoration, in-lieu fee payment, or purchase of mitigation credits at a USACE-, USFWS-, and/or CDFW-approved mitigation bank. Mitigation, as required in regulatory permits issued through CDFW, USACE, USFWS, and/or the Central Valley RWQCB, may be applied to satisfy this measure.

Timing: Before project activities

Responsibility: Reclamation District 369

Mitigation Measure BIO-13: Minimize Effects on Tree Resources.

1. **All State Parks Pruning Specifications Shall be Followed.** State Parks has their own pruning specifications (DPR 217A) that aligns with the American National Standards Institute *A300-2001 Tree, Shrub and Other Woody Plant Maintenance – Standard Practices (Pruning)* (State Parks 2002). All trees being pruned for project

activities shall follow these guidelines for equipment, general cuts, tree felling, and maintenance pruning.

2. **Tree Trimming and Removal Shall be Monitored**. All tree trimming and removal activities shall be monitored by an International Society of Arboriculture certified arborist. Activities that may occur that are not covered under the American National Standards Institute standards shall be directed by the International Society of Arboriculture certified arborist to ensure minimal impacts on trees.

3. **Prepare a Sacramento County Arborist Report Prior to Project Activities.** An arborist report meeting the standards for submittal to the Sacramento County Director of Public Works or Director of Parks and Recreation shall be prepared prior to any project activities including tree trimming and removal. The report shall include a site inventory, assessment and exhibit preparation. Obtaining a Tree Permit shall be required prior to any tree removals of protected species.

   Timing: Before and during project activities

   Responsibility: Reclamation District 369

Mitigation Measure CUL-1: Worker Environmental Awareness Program (WEAP) Training for Cultural and Tribal Resources.

Cultural resources awareness training, as part of an overall Workers Environmental Awareness Program, shall be conducted for all ground disturbance personnel. The WEAP shall be prepared by a cultural resources specialist who meets the Secretary of the Interior's Professional Qualifications Standards (36 Code of Federal Regulations [CFR] Part 61; 48 Federal Register 44716) and participating Native American Tribes, if they choose to do so. The training shall be conducted before any stage of physical project implementation and round disturbance. Native American representatives from interested Native American Tribes may participate in the training if they choose.

The WEAP training shall include information on the potential kinds of pre-contact Native American and historic-era cultural materials that could be encountered, how to identify buried faunal and human remains, and how to identify anthropogenic soils (e.g., midden soils). The WEAP training should also include a summary of the relevant laws concerning cultural resources and human remains, along with a summary of the following protocols to follow if workers encounter cultural resources or human remains.

Timing: Before and during project activities

Responsibility: Reclamation District 369.

Mitigation Measure CUL-2: Archeological and Tribal Monitoring at Select Locations.

During ground disturbing activities, specifically excavation of borings within the project boundaries or within 100 feet of the project boundaries of previously identified archaeological sites, archaeological and Tribal monitors shall be given the opportunity to

examine soils within the borings. Tribal monitors shall be from any participating Tribes that choose to participate. Archaeological monitors shall meet the Secretary of the Interior's Professional Qualifications Standards (36 CFR Part 61; 48 Federal Register 44716) or be supervised by such qualified archaeologists. Monitoring shall be conducted in order to identify any cultural or cultural resources that may be present as well as any human remains.

Any discovery of historical or archeological resources, Tribal Cultural Resources and/or human remains during monitoring shall be addressed according to the procedures in Mitigation Measure CUL-3 or CUL-4 (below), as appropriate.

Timing: During project ground disturbance activities.

Responsibility: Reclamation District 369.

Mitigation Measure CUL-3: Avoid Potential Effects on Undiscovered Historical Resources and Unique Archaeological Resources.

To minimize the potential for significant impacts to undiscovered historical resources and unique archaeological resources, as well as any encountered subsurface remnants or components of known cultural resources during project-related ground-disturbing activities, RD 369 and its contractor(s) shall implement the following measures:

- If cultural resources are discovered during project-related ground-disturbing activities, then all ground disturbing activities that may damage the discovery shall stop within 100 feet of the discovery and RD 369 shall be immediately notified. RD 369 shall hire a qualified archaeologist to determine if the discovery is an historical resource or unique archaeological resource per CEQA. If necessary, the qualified archaeologist shall develop a testing plan to determine if the discovery meets significance criteria for a historical resource or unique archaeological resource; any testing plan shall not be implemented until review by RD 369.

- If the discovery is determined not to be either an historical resource or unique archaeological resource, then ground disturbance in the area of the discovery may continue.

- If the discovery is determined to meet significance criteria, then the qualified archaeologist shall develop and implement a treatment plan in consultation with RD 369 to mitigate any significant impacts to the discovery; preservation in place is the preferred mitigation measure. Work in the area of the discovery shall not continue until treatment is completed.

Timing: Before and during project ground disturbance activities.

Responsibility: Reclamation District 369.

Mitigation Measure CUL-4: Avoid Potential Effects on Undiscovered Burials.

To minimize the potential for destruction of or damage to undiscovered burials during project-related earthmoving activities, RD 369 and its contractor(s) shall implement the following measures:

In accordance with the California Health and Safety Code (CHSC), if human remains are uncovered during ground-disturbing activities, all ground-disturbing work potentially damaging excavation in the area of the burial and a 100-foot radius shall halt and the Sacramento County Coroner shall be notified immediately. The coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or state lands (CHSC 7050.5[b]). If the coroner determines that the remains are those of a Native American, he or she must contact the Native American Heritage Commission (NAHC) by phone within 24 hours of making that determination (CHSC Section 7050[c]). The NAHC shall designate a Most Likely Descendant (MLD) for the human remains. After the coroner's findings have been made, an archaeologist meeting the Secretary of the Interior's Professional Standards for Archaeologists and the NAHC-designated MLD shall determine the ultimate treatment and disposition of the remains and take appropriate steps to ensure that additional human interments are not disturbed. The responsibilities of Sacramento County for acting upon notification of a discovery of Native American human remains are identified in PRC Section 5097.9.

Native American human remains, associated grave goods, and items associated with Native American human remains that are subject to California PRC Section 5097.98 shall not be subjected to scientific analysis, handling, testing, or field or laboratory analysis without written consent from the MLD. If human remains are present, treatment shall conform to the requirements of State law under CHSC Section 7050.5 and PRC Section 5097.87, unless the discovery occurs on Federal land. RD 369 agrees to comply with other related State laws, including PRC Section 5097.9.

Timing: Before and during project ground disturbance activities.

Responsibility: Reclamation District 369

Mitigation Measure GEO-1: Prepare and Implement a Storm Water Pollution Prevention Plan Associated Best Management Practices.

RD 369 shall prepare a Notice of Intent and implement the appropriate Stormwater Pollution Prevention Plan (SWPPP) to meet the State Water Board's Construction General Permit requirements in Order 2009-0009-DWR (as amended by 2010-0014-DWQ and 2012-0006-DWQ)) to prevent and control pollution and to minimize and control runoff and erosion during ground disturbing activities of the proposed project. The SWPPP shall identify the activities that may cause pollutant discharge (including sediment) during storms or strong wind events and the Best Management Practices (BMPs) that shall be employed to control pollutant discharge. Techniques shall be identified and implemented to reduce the potential for runoff may include minimizing site disturbance, controlling water flow over the site, stabilizing bare soil, and ensuring proper site cleanup. In addition, the SWPPP shall include an erosion control plan and

BMPs that specify the erosion and sedimentation control measures to be implemented, which may include silt fences, staked straw bales/wattles, silt/sediment basins and traps, geofabric, trench plugs, terraces, water bars, soil stabilizers and re-seeding and mulching to revegetate disturbed areas. The SWPPP shall also include dust control practices to prevent wind erosion, sediment tracking, and dust generation by construction equipment. No ground elated disturbance of surfaces shall occur between October 15 and April 15 without appropriate erosion control measures in place.

The SWPPP shall also include a spill prevention, control, and countermeasure plan, and applicable hazardous materials business plans, and shall identify the types of materials used for equipment operation (including fuel and hydraulic fluids), and measures to prevent and materials available to clean up hazardous material and waste spills. The SWPPP shall also identify emergency procedures for responding to spills.

The BMPs presented in either document shall be clearly identified and maintained in good working condition throughout the ground disturbance process. The site contractor(s) shall retain a copy of the approved SWPPP on the site and modify it as necessary to suit specific site conditions through amendments approved by the Central Valley RWQCB, if necessary

Timing: Before and during project ground disturbance activities.

Responsibility: Reclamation District 369.

ADOPTION OF MITIGATED NEGATIVE DECLARATION AND APPROVAL OF PROJECT

Certification by Those Responsible for Preparation of This Document. RD 369 is responsible for the preparation of this Mitigated Negative Declaration and the incorporated Initial Study. I believe this document meets the requirements of the California Environmental Quality Act and provides an accurate description of the proposed project, and that the lead agency has the means and commitment to implement the project design measures that will assure the project does not have any significant, adverse effects on the physical environment. I recommend approval of this document.

_____ _____

Clarence Chu, President Date
Reclamation District 369

*(*To be signed upon completion of the public review process and preparation of a final project approval package including consideration of all comments, if any, on the environmental document and any necessary modifications to project design measures.)*

Approval of the Project by the Lead Agency: To meet Section 21082.1 of the California Environmental Quality Act, Reclamation District 369 has independently reviewed and analyzed the Initial Study and Mitigated Negative Declaration for the proposed project and finds that the Initial Study and Mitigated Negative Declaration reflect the independent judgment of Reclamation District 369. The lead agency finds that the project design features will be implemented as stated in the Mitigated Negative Declaration.

I hereby attest that the Board of Directors of the Reclamation District 369 has approved this proposed project:

_____ _____

Clarence Chu, President Date
Reclamation District 369

*(*To be signed upon completion of the public review process and preparation of a final project approval package including consideration of all comments, if any, on the environmental document and any necessary modifications to project design measures.)*