



Valley Water

FEBRUARY 25, 2025

Anderson Dam Seismic Retrofit Project

Final Environmental Impact Report

SCH # 2013082052

VOL #2

Final EIR - Part 2

Chapter 7

DRAFT EIR COMMENTS AND RESPONSES

7.1 Introduction

This chapter contains public comments received on the Draft EIR and responses to such public comments. The Draft EIR was distributed for public review and comment on September 1, 2023. The public review and comment period ended on November 8, 2023. This chapter contains copies of the comment letters received during the public review process, master responses that address overarching themes raised by commenters, and individual comments and responses.

A total of 90 comment letters or other written communications such as emails (hereafter collectively referred to as “comment letters”) was received on the Draft EIR before the close of the public review and comment period. Additionally, 34 letters related to EIR contents were received related to the separate FERC petition process associated with the Project during the Draft EIR public review and comment period. These 34 FERC-related letters are addressed in this chapter as well, although they were not submitted as Draft EIR comment letters and therefore no responses were required under CEQA.

Table 7-1 provides a list of all comments received, including the name of the public agency, organization, or individual person that submitted the letter and the date of the letter. Each comment letter also has been assigned an identification number, as indicated in **Table 7-1**.

This chapter has two main sections following this introduction. Section 7.2, *Master Responses to Comments*, contains responses addressing overarching commenter themes. Section 7.3, *Individual Responses to Comments*, contains individual comments followed by responses to each individual comment. Where a comment resulted in a change to the Draft EIR text, the text was revised in underline and ~~strikeout~~ format, and the change is shown in the response to that comment.

Table 7-1 List of Comment Letters and Associated Commenters

Comment Letter	Commenter
Public Agency (A)	
A1	United States Fish and Wildlife Service (USFWS), Vincent Griego
A2	National Marine Fisheries Service (NMFS), Alison Weber-Stover
A3	California Department of Water Resources Division of Safety of Dams (CDWRDSOD), Sharon K. Tapia P.E.
A4	California Department of Fish and Wildlife (CDFW), Eric Chappell
A5	State Water Resources Control Board (SWRCB), Eric Bradbury
A6	San Francisco Bay Regional Water Quality Control Board, Keith Lichten
A7	Santa Clara County, Lizanne Reynolds
A8	City of Morgan Hill, Chris Ghione

Comment Letter	Commenter
A9	City of San Jose, Parks, Rec & Neighborhood Services, Leo Tapia
A10	Santa Clara Valley Open Space Authority (SCVOSA), Aaron Hebert
Organization (O)	
O1	San Francisco Baykeeper, Ben Eichenberg
O2	Sierra Club, Katja Irvin + Shani Kleinhaus, Audubon + California Native Plant Society (CNPS), Judy Fenerty
O3	Sierra Club, Katja Irvin
O4	Holiday Estates Maintenance Association, Inc. (HEMA), Claudia Martinez (1)
O5	HEMA, Claudia Martinez (2)
Individual Person (P)	
P1	Adelson, Linda
P2	Alessi, Aldo
P3	Alexander, Gina
P4	Batey Annette (1)
P5	Batey, Annette (2)
P6	Bell, Mark
P7	Blalack, Jennifer
P8	Boyer, Jennifer
P9	Breyta, Lila
P10	Carrillo, Oscar
P11	Cassanova, Bill
P12	Cassanova, Elle
P13	Cavigliano, Alvan
P14	Clark, Tom
P15	Clifton, Chris (1)
P16	Clifton, Chris (2)
P17	Clifton, Leigh Ann (1)
P18	Clifton, Leigh Ann (2)
P19	Clifton, Leigh Ann (3)
P20	Connors, David
P21	Curtiss, Don
P22	Dantec, Geraldine
P23	Dean, Julie
P24	Donnelly, Juanita
P25	Giancola, Sheila
P26	Gruebel, Kathryn
P27	Guglielmoni, Joe

Comment Letter	Commenter
P28	Hall, Harris
P29	Holland, Sharon
P30	Kingman, Tony
P31	Kirchoff, Jenny & Vince
P32	Koss, Teri (1)
P33	Koss, Teri (2)
P34	Kreidler, Stephen
P35	Krusemark, Jay (1)
P36	Krusemark, Jay (2)
P37	Le, Samantha
P38	Lillig, Carol
P39	Longbons, Robert & Phyllis
P40	Lopez, Tony
P41	Lung, Laura
P42	McDermott, Christina
P43	McPhee, Joanne
P44	Milshtein, Adi
P45	Moore, Michael
P46	Mulligan, Sean (1)
P47	Mulligan, Sean (2)
P48	O'Keefe, Barbara (1)
P49	O'Malley, Dennis
P50	Redd, Kathleen
P51	Rife, Joanne
P52	Rife, Susan
P53	Roderick, Ryan
P54	Scaling, Sandra
P55	Schafer, Jeff
P56	Schafer, Rachel
P57	Schnabel, Chris
P58	Shepherd, Kristin (1)
P59	Shepherd, Kristin (2)
P60	Shepherd, Robin (1)
P61	Shepherd, Robin (2)
P62	Simone, Chris
P63	Simone, Francine

Comment Letter	Commenter
P64	Tellez, Yolanda
P65	Tingley, Russel
P66	Tiscareno, Maria
P67	Vartanian, Zana
P68	Viegas, Fredericks, Smith, Mercurio, O’Keefe
P69	Viso, Vanessa
P70	Waxman, Mark
P71	Whitemore, Chelsea
P72	Wigmore, Adam
P73	Workman, David & Teresa
P74	Zanardelli, Kim
P75	Zepecki, F John (1)
FERC-related (F)	
F1	HEMA (3)
F2	Allen, Julie
F3	B, Danika
F4	Batey, Annette (2)
F5	Batey, David (2)
F6	Berghoff, Ruth
F7	Blenn, Ralph
F8	Cabezas, Marco
F9	Clampitt, Nancy
F10	Clark, Tammy
F11	Donnelly, Juanita (2)
F12	Haley, Carolyn
F13	Jolly, Patricia
F14	Kaiser, Jon
F15	Lee, Linda
F16	McCarthy, Robin
F17	McCulloch, Christy
F18	Miller, Mike
F19	O’Keefe, Barbara (2)
F20	Oza, Norm
F21	Raissi, Jo Ann
F22	Rasmussen, Paula
F23	Rupp, Pam

Comment Letter	Commenter
F24	Shields, John
F25	Shipp, Josh
F26	Stephens, Daniel
F27	Tachick, Bonnie
F28	Vecchio, Gioia
F29	Vizzusi, Anthony
F30	Volk, Ulla
F31	Williams, Regan
F32	Wood, Chris (1)
F33	Wood, Chris (2)
F34	Zepecki, F. John (2)

7.2 Master Responses to Comments

7.2.1 Master Response 1 – Alternative Designs for Ogier Ponds

7.2.1.1 *Summary of Comments*

Several comments were received on the Draft EIR related to the design of the Ogier Ponds CM in the following contexts:

- **CDFW Alternative.** Commenters recommended Valley Water consider the alternative brought forward by CDFW in the TWG meetings and written comments that would completely fill Ponds 1-6 for the purpose of creating a much wider channel and floodplain area. This would result in the elimination of additional open water habitat, would reduce pond fringe wetland and riparian habitat types, and expand the floodplain surrounding the restored Coyote Creek channel from the 60 acres proposed to 299 acres. The fill material required to remove Ponds 1-6 would be obtained by stripping all vegetation, excavating, and lowering the ground surface of about 358 acres of existing County Parks lands. It was also recommended that additional biologically relevant design criteria, such as a 2,306 acre-day target per year for floodplain inundation, be considered in the design.
- **Including the staging and stockpile area within the creek design.** Commenters recommended that the area that is proposed for Project staging and the stockpiling of materials instead be restored to floodplain habitat.
- **Increased design complexity.** Commenters recommended that the design complexity of the Ogier Ponds CM be improved to expand the floodplain through the filling of additional ponds beyond those proposed in the Ogier Ponds CM and/or to include additional side channels, alcoves, side ponds, and a meandering low flow channel that would support a more variable flow regime to maximize the habitat complexity and diversity that would be created.

- **Special-status species design considerations.** Commenters recommended that additional considerations be included in the design of the Ogier Ponds CM to accommodate further habitat development for special-status species. These may include, but are not limited to, the restoration of habitat that could support all life stages of Central California Coast steelhead and Chinook salmon, habitat for northwestern pond turtle, breeding habitat for California red-legged frog, and nesting habitat for tricolored blackbird.

7.2.1.2 Master Response to Comment

CEQA Requirements for Alternatives to Reduce Effects

Section 15126.6 of the CEQA Guidelines requires that an EIR “describe a range of alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to the project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation.”

An EIR assesses the project effects under CEQA where the project is compared to the baseline conditions. The Ogier Ponds alternatives suggested by commenters are alternatives which reflect the degradation caused by all historical modifications to Coyote watershed rather than the effects of ADSRP; CEQA requires mitigation of the effects of the project, and not mitigation of the effects of all historical modifications in the watershed. The effects of ADSRP are fully mitigated by Ogier Ponds Alternatives 5 and 6 that improve aquatic habitat conditions as compared to all baselines that were included in the EIR analysis. These include pre-FERC FOCP conditions where the highly modified historical conditions of the watershed are considered, post-FOCP existing conditions, and future conditions, where operations have returned to normal conditions.

CEQA Requirements for Range of Alternatives

Section 15126.6 of the CEQA Guidelines requires that an EIR “describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant effects of the project.” Additionally, the CEQA Guidelines state the following:

- The discussion of alternatives must focus on alternatives to the project that are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede the attainment of project objectives to some degree or be more costly. (CEQA Guidelines Section 15126.6(b).)
- An EIR need not consider every conceivable alternative to a project. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. An EIR is not required to consider alternatives that are infeasible. The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly discuss the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the lead agency but were

rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts (CEQA Guidelines Section 15126.6(c).)

- The "range of alternatives" is governed by the "rule of reason," which requires the EIR to describe and consider only those alternatives necessary to permit informed public participation, and an informed and reasoned choice by the decision-making body (CEQA Guidelines Section 15126.6(a) and (f)). The description or evaluation of alternatives does not need to be exhaustive, and an EIR need not consider alternatives for which the effects cannot be reasonably determined and for which implementation is remote or speculative. Also, CEQA does not require EIRs to include multiple variations of the alternatives it considers in detail (*Village Laguna of Laguna Beach v. Board of Supervisors* [1982] 134 Cal. App. 3d 1022.).
- Regarding the feasibility of alternatives, *feasible* means "capable of being accomplished in a reasonable period of time taking into account economic, environmental, legal, social and technological factors." (CEQA Guidelines Section 15364). The concept of feasibility also encompasses whether a particular alternative promotes the project's underlying goals and objectives, and whether an alternative is impractical or undesirable from a policy standpoint. (See *City of Del Mar v. City of San Diego* [1982] 133 Cal. App. 3d 410 and *California Native Plant Society v. City of Santa Cruz* [2009] 177 Cal. App. 4th 957.)

Further, EIRs must discuss a reasonable range of alternatives to the project as a whole and are not required to consider alternatives to particular components of a project (*California Native Plant Society v. City of Santa Cruz* [2009] 177 Cal. App. 4th 957). The Ogier Ponds alternatives suggested by commenters are alternatives to one Project component, not to the Project as a whole, so they need not be evaluated as EIR alternatives.¹ They are, nevertheless, described and analyzed in the below discussion.

Ogier Ponds Alternatives Considered in Draft Feasibility Report

At the time the Final EIR was being drafted, Valley Water was preparing a Feasible Alternatives Report for Ogier Ponds Separation from Coyote Creek. The Feasible Alternatives Report documents justifications for selection of an Ogier Ponds alternative that feasibly meets project objectives. Six alternatives are being analyzed in the Feasible Alternatives Report, Alternatives 1 through 4 were not carried forward for detailed consideration due to unacceptable impacts and/or risks. Alternative 5 is the Ogier Ponds CM included in this EIR as part of the Project, and Alternative 6 is included in this EIR as part of the Ogier Ponds Alternative. The six alternatives evaluated are:

- Alternative 1, Transport Steelhead Around Ogier Ponds.
- Alternative 2, Excavate a New Creek Channel through Perry's Hill.

¹ Note that the Final EIR does evaluate one alternative to the Ogier Ponds CM, the Ogier Ponds Alternative, even though it was not required to do so under CEQA. This alternative would avoid the partial filling of Pond 1. See Final EIR Section 5.5.4, *Modification of Ogier Ponds Last West of Pond 1 and 2 to Protect Ponds and to Avoid Trucking (Ogier Ponds Alternative)*. This alternative has environmental benefits compared to the Ogier Ponds CM, and could be selected when the Valley Water Board of Directors considers approval of the Project.

- Alternative 3, Partially Fill Ponds for New Creek Channel and to Retain Some Open Water.
- Alternative 4, Completely Fill Ponds 1, 2, 3, 4, 5, and 6 to Restore a Pre-mining Creek Channel and Floodplain.
- Alternative 5, Fill Ponds 1, 2 and 5 For a New Creek Channel West of Ogier Ponds and Re-Use Pre-1997 Creek Channel.
- Alternative 6, Acquire Lands West of Pond 1 and Pond 2 for New Creek Channel and to Protect Ponds and Avoid Fill Hauling.

Ogier Ponds CM

The Ogier Ponds CM is described in detail in Chapter 2, *Project Description*, of the Final EIR under Section 2.6.1, *Ogier Ponds CM*. As described in the EIR, the Ogier Ponds CM would separate Coyote Creek from Ogier Ponds to provide ecological enhancements to the channel and floodplain, improve water temperature impacts of the ponds, enhance fish migration, reduce fish entrainment, and integrate public access and interpretation of natural resources and historical features within and along a portion of Coyote Creek on County Parks property.

The Ogier Ponds CM would restore the pre-1997 creek channel to create a geomorphically stable creek with a connected floodplain, adding habitat and biological features to the creek and floodplain. The proposed design would include the filling of Pond 1 and the construction of a new section of the creek channel and floodplain in the area of the pre-1997 creek channel. The new creek channel would begin at Pond 1 and connect to the pre-1997 channel alignment located west of Ponds 2, 3, 4, and 5. The length of the reconstructed channel would be approximately 6,500 linear feet of the pre-1997 channel. This design would completely fill and remove Pond 1 and 5, partially fill Ponds 2 and 4, and construct earthen berms to separate the unfilled portions of Pond 2 from the restored pre-1997 creek channel. The restored channel would include a concrete spillway to direct creek flow exceeding the upper limit of fish passage flows into Pond 2 to prevent increased flood risks to properties west of the restored channel. The Ogier Ponds CM would also include an outlet structure on Pond 4 to allow high flows temporarily detained in Ponds 2, 3, and 4 to flow back into the restored creek channel. The outlet structure would be equipped with fish screens to prevent invasive fish residing in the ponds from entering the creek. No changes are proposed at Ponds 3 and 6 of this design.

The restored Coyote Creek channel would include a 2-foot-deep and 20-foot-wide low-flow channel with capacity to convey the bankfull creek flow of 30-50 cfs with floodplains that range from approximately 125-700 feet-wide on either side of the low-flow channel. The low-flow channel would concentrate low flows to provide suitable water depth for steelhead passage. Larger creek flows would spread onto the connected floodplain, seasonally providing floodplain rearing habitat for juvenile steelhead. The Ogier Ponds CM would meet NMFS and CDFW criteria for fish passage and provide spawning and rearing habitat for steelhead and other native fish. The restored channel would create over 20,000 square feet of spawning habitat, and over 65,000 square feet of suitable rearing habitat, with over 20,000 square feet of shallow water habitat for fry rearing at typical spring and summer flows of approximately 30-50 cfs, with additional side channels and refugia created in the floodplain over time as the area establishes. By disconnecting Coyote Creek from Ogier Ponds, the CM would eliminate the predatory pressure on juvenile steelhead from non-native fish residing in the pond and the increase in downstream creek water temperatures currently caused by the ponds. The additional wetland,

and side stream channel and pond habitat created through the project, would also provide additional habitat to support northwestern pond turtle and tricolored blackbird.

The CM would be consistent with the County Parks Integrated Natural Resource Management Plan (INRMP) and Master Plan by retaining four of the six Ogier Ponds as important recreational features. The Ogier Ponds CM would also be compatible with the County Parks planned Perry's Hill recreational complex as the Ogier Ponds CM footprint would not overlap the planned Perry's Hill recreational area.

CDFW Alternative

Instead of filling only Pond 1, the suggested CDFW Alternative would completely fill and remove Ponds 1 through 6 to provide room for a larger floodplain than is included in the Ogier Ponds CM. The CDFW Alternative also took into consideration a design criteria of 2,306 acre-day target per year for floodplain inundation. The CDFW floodplain restoration goals (from Gard 2023) calculated the floodplain inundation under current topography in the reach of Coyote Creek near Ogier Ponds for a variety of flows, and then used the flow record from the Madrone stream gage to assess how frequently those flows occurred pre-1950 and since Anderson Dam construction. CDFW then multiplied the total floodplain acreage for a given flow by how many days per year that flow occurred prior to 1950 (which is referred to as "unimpaired") and since 1950. CDFW assumed that the flow frequency under current conditions, past conditions, and future conditions would be the same. Gard (2023) did not include the effect of sediment augmentation on raising channel bed elevation, post-construction operations flows, or account for the geomorphic flows plan, all which are expressly intended to increase floodplain inundation.

The CDFW Alternative would improve fish passage, reduce creek water temperatures, and enhance steelhead spawning and rearing habitat to an extent similar to the Ogier Ponds CM. By removing Ponds 2 through 6, in addition to Pond 1, the CDFW Alternative would further eliminate pond habitat for invasive fish and reduce the predatory pressure on juvenile steelhead, but at the expense of substantial additional open water pond impacts. This alternative would create a much wider floodplain adjacent to Coyote Creek than the Ogier Ponds CM. However, the vast majority of this expanded floodplain would not be wetted by overflow flows from the creek during most years. The Ogier Ponds CM has been designed with a floodplain of sufficient width to accommodate creek overflows based on releases from Anderson Reservoir, and would provide seasonal floodplain rearing habitat in almost all years. Because the wider floodplain proposed by the CDFW Alternative would be infrequently wetted, it would make available little, if any, rearing steelhead habitat above what is provided by the Ogier Ponds CM. Furthermore, the design criteria based on acre-days instead of expected releases from Anderson Dam and the Coyote Creek flow regime would not provide adequate hydrology to support the constructed floodplain to provide suitable rearing habitat; therefore, these design criteria were not used in the development of alternatives for the Ogier Ponds CM.

Additional Environmental Effects make the CDFW Alternative Impractical and Undesirable.

The CDFW Alternative would fill and remove Ponds 1 through 6 to provide a larger floodplain than is included in the Ogier Ponds CM. The vast majority of this expanded floodplain would not be wetted by creek overbank flows during most years. The CDFW analysis is also incorrect in that it assumes zero percolation of creek and overbank flows to groundwater. The CDFW

assumption of zero infiltration is not scientifically valid, as recent studies have shown that substantial infiltration of surface water occurs at the Ogier Ponds site (Todd Groundwater 2017). If Gard 2023 had factored in infiltration and resultant losses to groundwater, the area and duration of floodplain wetting would be substantially less than calculated by CDFW. Thus, the CDFW Alternative would not achieve the fish habitat benefits claimed by CDFW and would cause greater and more intense impacts to natural resources and local land uses than the CM.

The Ogier Ponds CM design includes a floodplain of sufficient width to accommodate creek overbank flows and provide seasonal floodplain rearing habitat in almost all years (Final EIR page 2-77 and 2-78). Because the wider floodplain proposed by the CDFW Alternative would be infrequently wetted, it would make available little, if any, steelhead rearing habitat above what is provided by the Ogier Ponds CM. Further, it is not expected to provide greater benefits than the Ogier Ponds CM with respect to fish passage, creek water temperatures, or the enhancement of steelhead spawning habitat. Since the amount of floodplain wetlands created would be limited by creek flows and not by floodplain width, the Ogier Ponds CM would create the same amount of floodplain wetlands as the CDFW Alternative, with less open water impact (Final EIR page 2-78).

The CDFW Alternative would require vegetation removal and excavation of over 300 acres of high quality riparian woodland and grassland habitats to produce the fill needed to fill Ponds 1 through 6, as compared to the approximately 40 acres of land disturbance that would result from the Ogier Ponds CM (Alternative 5). The net amount of fill required by the CDFW Alternative would be about 2,050,000 cy, which is about five times the net fill required by the Ogier Ponds CM. Excavating borrow material, transporting it to the ponds, and placing it in the ponds would result in far greater emissions of air pollutants and GHGs than the Ogier Ponds CM, as the quantity of fill is vastly greater. Consequent impacts, including truck traffic, noise, light, and water quality would be greater than the Ogier Ponds CM and would increase the Project's significant and unavoidable impacts to air quality and noise.

The CDFW Alternative would also eliminate approximately 130 acres of open water habitat while providing no compensation for this impact, which would result in impacts to a number of sensitive species, including migratory birds and northwestern pond turtles. Restoration of the 300 acres of borrow area would require large-scale grading to stabilize the denuded borrow areas to establish proper topography for drainage, and re-establish native vegetation.

In addition, the proposed Ogier Ponds CM would be consistent with the County Parks Coyote Parkway Integrated Natural Resource Management Plan (INRMP) and Master Plan by retaining four of the six Ogier Ponds as important recreational features. The Ogier Ponds CM would also be compatible with the County Parks planned Perry's Hill recreational complex as the Ogier Ponds CM footprint would not overlap the planned Perry's Hill recreational area. In contrast, the CDFW alternative would conflict with the INRMP by eliminating all six Ogier Ponds and disturbing 300 acres of parkland to generate fill material. As a result, water-based recreation envisioned in the INRMP would not be possible and there would be aesthetic impacts from removal of the ponds and clearing of vegetation, diminishing the recreational value of the Coyote Parkway. Valley Water estimates the cost of constructing the CDFW Alternative to be \$340 million, which is substantially more than the estimated construction cost of \$48 million to \$146 million for the Ogier Ponds CM (Valley Water 2023a).

The CDFW Alternative would not avoid or reduce significant environmental impacts identified in the Draft EIR. It would, however, permanently affect a much larger area of jurisdictional habitats than the Ogier Ponds CM. The CDFW Alternative would also result in greater environmental impacts to air quality, noise, water quality, biological resources, and recreational resources than the Ogier Ponds CM. For these reasons, as well as its substantially higher cost that makes the CDFW Alternative impractical, the CDFW Alternative is not included in the EIR range of alternatives for detailed evaluation. In addition, these disadvantages make it unlikely that the CDFW Alternative can be incorporated into the Project as a component and still allow the Project to be determined to be the Least Environmentally Damaging Practicable Alternative (LEDPA) as the San Francisco Regional Board notes in its comment A6-5 is required for implementation of the Project by both federal Clean Water Act Section 404(b)(1) and regulations adopted thereunder, as well as by the *Procedures for the Discharge of Dredged or Fill Material to Waters of the State* (April 2, 2019, as amended).

Including the Staging and Stockpile Area within the Creek Design

Valley Water currently plans to incorporate a portion of the Ogier Ponds CM construction stockpile and staging area into the connected floodplain of Coyote Creek after separation from the Ogier Ponds, as shown on Final EIR Figure 2-11 (Valley Water 2021g). This would increase the connected floodplain area of the Ogier Ponds CM by approximately 10 percent (Final EIR page 2-77). It is expected that the connected floodplain would be seasonally wetted in most years by the FAHCE Plus or FAHCE Plus Modified flows to provide rearing habitat for steelhead (Final EIR pages 3.4-95 and 3.4-96). Including the entire staging and stockpile area within the Ogier Ponds design would be a minor variation of the Ogier Ponds CM that would not avoid or substantially lessen any of the Project's significant impacts.

Increased Design Complexity

Additional design complexity beyond the proposed Ogier Ponds CM was not considered as the Ogier Ponds CM has been designed with a floodplain of sufficient width to accommodate creek overflows and provide seasonal floodplain steelhead rearing habitat in almost all years (Final EIR pages 3.4-95 and 3.4-96). As currently designed, the Ogier Ponds CM provides for the creation of 56 acres of floodplain, connected to and surrounding a low flow channel. The channel and floodplain would be inundated with sufficient frequency to allow the low flow channel to migrate and develop into a meandering feature, and to create side channels and alcoves that are surrounded with emergent marsh and riparian vegetation. The addition of increased design complexity would not be supported by the flow regime within Coyote Creek. The Ogier Ponds CM design would provide rearing and spawning habitat for steelhead, and would also result in additional wetlands (including emergent marsh) and riparian vegetation that would support additional special status species, including northwestern pond turtle and tricolored blackbird. The Ogier Ponds CM would offset impacts that may be caused to steelhead and steelhead habitat throughout the construction of the Project; however, significant impacts to northwestern pond turtle, California red-legged frog, and tricolored blackbird are not expected. The Ogier Ponds CM would create additional habitat for these species as a beneficial impact of the Project, without the addition of increased design complexity that would not be supported by expected flows. Furthermore, as the system evolves and establishes over time through the natural fluctuation in flows that would occur in Coyote Creek, the complexity of the creek channel and adjacent floodplains throughout the Ogier Ponds CM area would increase the

complexity of the system (Final EIR page 3.5-129) This approach would be a minor variation of the Ogier Ponds CM that would not avoid or substantially lessen any of the Project's significant impacts, and would also result in the creation of habitat features that are not supported by the flow regime of Coyote Creek.

Special-Status Species Design Considerations

The Ogier Ponds and surrounding riparian habitat currently provide foraging and nesting habitat for many species of migratory/resident birds, including tricolored blackbird, and basking habitat for northwestern pond turtle. The Ogier Ponds CM minimizes impacts to open water habitat, and retains much of the existing riparian and grassland habitats within the pond complex. In addition, the conversion of a portion of the open water pond areas to perennial stream, and creation of additional floodplain emergent marsh, seasonal wetlands, and additional riparian habitat provides an overall increase in ecological functions and services within the watershed. The Ogier Ponds CM has been designed with a floodplain of sufficient width to accommodate creek overflows and provide seasonal floodplain rearing habitat in almost all years for both Central California Coast steelhead and Chinook salmon (Final EIR pages 2-78 and 3.4-132), and would provide additional riparian and wetland habitat that would support northwestern pond turtle and tricolored blackbird. The Ogier Ponds CM would also offset impacts that may be caused to steelhead and steelhead habitat throughout the construction of the project; however, significant impacts to northwestern pond turtle, California red-legged frog, and tricolored blackbird are not expected. The Ogier Ponds CM would create additional habitat for these species as a beneficial impact of the Project, without additional consideration for the design of specific habitat to support special status species. The inclusion of additional design criteria for these species may not be supported by the flow regime within Coyote Creek, and therefore would not provide additional beneficial impacts to special-status species beyond the Ogier Ponds CM, and would not avoid or substantially lessen any of the Project's significant impacts. Implementation of the Ogier Ponds CM would also not preclude future restoration projects from being implemented throughout the Ogier Ponds site that may provide additional opportunities for further habitat creation for special-status species.

7.2.2.1 Summary of Comments

Several comments were received on the Draft EIR related to Project impacts on steelhead fisheries resources raising the following issues:

- **CEQA requirements for Project impact analysis.** This includes assertions that impacts are missing or not adequately discussed in the Draft EIR, the environmental setting or baseline is misrepresented, and CEQA mitigation measures for fisheries resources should be required.
- **CEQA assessment of significance of Project construction impacts and cumulative impacts.** This includes commenter assertions that certain construction and cumulative fisheries impacts determined to be less than significant should be considered significant impacts, including assertions that impacts on individual steelhead should be considered significant.

7.2.2.2 Master Response to Comment

Misapprehension of CEQA Requirements for Project Impact Analysis

Commenters misapprehend CEQA requirements regarding how to frame the CEQA steelhead impact assessment.

EIR Baselines Pursuant to CEQA

Commenters assert that the approach to the CEQA analysis for listed steelhead was not adequate and should consider ongoing impacts that occur compared to historical conditions, including conditions prior to Anderson Dam construction in 1950 as well as conditions prior to the Coyote Percolation Dam construction. Similarly, commenters assert that the current impaired condition of Central California Coast (CCC) distinct population segment (DPS) of steelhead is underrepresented and should be described further, including changes from historical, unmodified conditions (i.e., conditions that occurred prior to construction of Anderson Dam in 1950). The commenters therefore suggest that a historical condition of the watershed represents the comparison point or the “baseline” conditions to which the impacts of the Project should be compared and that comparison would demonstrate that the Project results in significant impacts to the steelhead fisheries resource.

However, under CEQA, in analyzing a project's impacts, an EIR compares those impacts to existing environmental conditions, which are the baseline for impact analysis (CEQA Guidelines Section 15125(a)). The purpose of an EIR is to discuss the impact of a proposed project on the existing environment, not to resolve pre-existing environmental problems or impacts caused by ongoing activities at a project site. *Watsonville Pilots Assn. V, City of Watsonville* (2010) 183 Cal. App. 4th 1059, 1094; *Communities for a Better Environment v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal. 4th 310.). An EIR should reflect “real conditions on the ground” and what is “actually happening” at the time of EIR preparation. (*Citizens for E. Shore Parks v. State Lands Comm’n* (2011) 202 Cal. App. 4th 549, 558). Therefore, commenter assertions that the steelhead impact analysis must use a historical comparison point and that continued impacts from the dam being in place must be included as Project impacts, are not substantiated by the case law.

As discussed in Final EIR Section 3.0.2, *Environmental Baselines*, under CEQA, physical baseline conditions serve as the basis against which the incremental impacts of a proposed project are measured. The effects of Project implementation were compared with environmental baseline conditions under each resource topic. The baselines that are used in the EIR and the steelhead impact analysis are threefold and complicated by the FOC that is currently underway. These baselines are explained in Section 3.0.2 of the Final EIR and clarified further here with respect to the steelhead impact analysis.

The Pre-FERC Order Baseline considers the condition of the steelhead population and the environment prior to the FERC Order. In the operations and instream flow modeling, this means that groundwater recharge operations are assumed to meet current consumer demand and Coyote Creek conditions immediately prior to the 2020 FERC IRRM Order (i.e., prior to the reservoir drawdown to deadpool and FOC). This baseline is used because comparison of Project effects solely to the conditions during and after FOC construction would underrepresent the impacts of ADSRP construction because Project impacts would be evaluated in comparison to already modified environmental conditions caused by the FOC. For example,

comparison of the impacts of ADSRP construction on instream flow operations solely to conditions during FOCP reservoir drawdown would understate the instream flow impacts of continued construction activities requiring a drawdown reservoir during ADSRP and would overrepresent the benefits of the future instream flow operations. The Pre-FERC Order Baseline properly and factually reflects and captures the current status of the species. Under CEQA, the Pre-FERC Order Baseline description need not present detailed information of the historical conditions that occurred over time, and instead properly focuses on the species and habitat conditions that existed immediately prior to the FERC Order.

The Existing Conditions Baseline is used to compare the expected post-FOCP condition to impacts that may occur during ADSRP construction. For example, chillers that must be installed pursuant to FOCP will already be in place post-FOCP and that will be a continued condition during ADSRP. Therefore, the installation of the chillers (or lack thereof) would not be an impact of the Project but would be considered under cumulative impacts of the Project with FOCP. Similarly, the Stage 1 Diversion will be in place and the weirs constructed during FOCP. As described in the EIR, while actually constructed as a part of FOCP, the presence of the Stage 1 Diversion system affects the maximum conveyance capacity of the dam during ADSRP, allowing more water to be diverted and bypassed around the dam directly to the creek during ADSRP construction then would otherwise exist under the Pre-FERC Order Baseline. This increased conveyance also results in modeled increased sediment transport which is an important component of the steelhead impact analysis for describing suspended sediment impacts on the steelhead population. On the one hand, the limited construction effects that occur during ADSRP from the construction of the Stage 1 Diversion system (because it is actually constructed during FOCP), and, on the other hand, the substantial ADSRP construction phase hydrology and sediment effects resulting from the ADSRP's use of the Stage 1 Diversion system during dam construction to increase diversion and bypass flows, are each carefully captured and evaluated by the appropriate use of the Existing Conditions and the Pre-FERC Order baselines, respectively.

Finally, the Future Baseline is used to compare the impacts and benefits of the post-construction phase instream flows (i.e., FAHCE and FAHCE-Plus Modified) on steelhead. The future baseline represents how the dam would be operated post-construction if it were to be operated the same way Valley Water operated the dam prior to FOCP and ADSRP but without seismic restrictions. This allows a comparison of the proposed post-construction FAHCE and FAHCE-Plus Modified instream flows and the habitat conditions they provide compared to what would be expected if there were no new post-construction instream flows. Modeling of both future conditions (the Future Baseline and the FAHCE/FAHCE-Plus Modified alternatives) account for variables like future development, water demand and pumping, and expected climate change effects on imported water deliveries so a more accurate comparison can be made between the new instream flows proposed as a part of the Project and what the instream flows would be if Valley Water did not implement the FAHCE or FAHCE-Plus Modified rule curves and operated the dam as it would have been operated prior to FERC and DSOD restrictions. The use of the Future Baseline is important for the steelhead impact analysis of future instream flow operations because comparison to only the Pre-FERC Order and Existing Conditions baselines would exaggerate the benefits of the FAHCE and FAHCE-Plus Modified operational rule curves.

CEQA Thresholds of Significance

With respect to the selection of the significance threshold for Project impacts to special-status fisheries, the threshold was chosen based on a number of considerations. First, a “species” is a group or population of organisms, and its status as endangered or threatened versus in recovery relates directly to the size and persistence of the group or population of organisms. Thus, the significance threshold asks whether a project would have a substantial adverse effect on the species group or population, not whether a project would have a substantial adverse effect on one or a few individuals of a species. Adverse effects on a few individuals of a special-status species do not automatically mean that the impact is significant under CEQA. (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal. App. 4th 1437).

An impact to one or a few individual fish or eggs is not required under CEQA to be the threshold of significance. Instead, adverse effects on the special-status species group or population is an appropriate metric to judge whether a project would have a “substantial adverse effect” on a special-status species. Consistent with CEQA Guidelines Appendix G, EIR Impact FR-1 uses a “substantial adverse effect” on the CCC steelhead Coyote Creek watershed population as a significance threshold. Section 3.4.3.6, *Thresholds of Significance*, on page 3.4-77 of the Final EIR has been revised to clarify that impacts on the Coyote Creek Watershed population were used as the metric to determine whether the Project has substantial adverse impacts on special status aquatic species as follows:

Fish species is interpreted to mean the species’ population in the Coyote Creek Watershed meaning that a substantial adverse effect to the population is considered a significant impact.

Valley Water has used a CEQA significance threshold that considers Project effects on the watershed level population for purposes of determining significance of Project impacts in the EIR; however, Valley Water understands that for purposes of prohibiting “take” under the federal ESA, it is take of individuals that is prohibited absent authorization. Further, under Section 7 of the federal ESA, Valley Water understands that NMFS and USFWS evaluate the effects of a federally licensed project on listed species (including effects of incidental take of individuals) in accordance with a jeopardy standard that evaluates Project effects on steelhead at the CCC DPS level, but CEQA does not require a lead agency to reach a legal conclusion regarding take of individuals of a listed species under the federal ESA. *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal. App. 4th 1383, 1397.

CEQA Mitigation Requirement

CEQA only requires mitigation based on the impacts of the Project compared to baseline conditions. The Draft EIR determined that Project impacts on steelhead are not significant compared to baseline conditions; therefore, no mitigation is required. Mitigation measures are not required for impacts that are found not to be significant. CEQA Guidelines Section 15126.4(a)(3). Also, existing environmental problems that are part of the baseline condition do not fall within CEQA mitigation requirements (*Paulek v. Department of Water Resources* (2022) 75 Cal. App. 4th 35, 44), meaning that CEQA does not require mitigation for the impacts of historical modifications to the watershed since historical modifications are not impacts of the

Project. Also, note that the Project's incremental effects together with the effects of other projects, including the effects of FOC, are properly evaluated as cumulative impacts in the EIR.

CEQA Impact Analysis is for a Proposed Project and not a Theoretical Project

Comments suggest that Project impacts should be evaluated in the absence of certain environmental protection features built into the Project description: BMPs, CMs, and VHP Conditions/AMMs. However, these environmental protection features are clear components of the Project proposed by Valley Water and outlined in Chapter 2, *Project Description*, of the Final EIR. CEQA requires analysis and consideration of all components of the Project description including BMPs, CMs, and the VHP Conditions/AMMs when determining the significance of Project impacts. Under CEQA case law, an EIR is entitled to assume that assumptions that are integral parts of a proposed project, such as full implementation of environmental protection features included into the project description, will become reality. *Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal. App. 3d 1022,1030.

Putting all the components discussed above together, Valley Water followed CEQA legal requirements in conducting the analysis of effects of the Project on steelhead. The environmental setting is described according to the appropriate baselines for CEQA analysis. Adverse impacts (as well as benefits) of the Project are thoroughly disclosed and consider implementation of BMPs, CMs, and VHP Conditions/AMMs, resulting in the conclusion that all Project effects on steelhead are less than significant at a watershed population level. Therefore, no CEQA mitigation measures supplementing the BMPs, CMs, and VHP Conditions/AMMs are required to further offset adverse impacts of the Project on steelhead fisheries resources.

Proper CEQA Assessment of Significance of Project Construction Impacts

Commenters assert that the following impacts are significant under CEQA, but when each Project effect was analyzed in accordance with CEQA legal requirements using the correct baselines and taking into account all Project components including BMPs, CMs, and VHP Conditions/AMMs, that conclusion is mistaken. Each assertion by the commenters is discussed in further detail below as well as the associated individual comments.

Construction Phase Suspended Sediment and Sediment Deposition Impacts

Commenters assert that suspended sediment impacts during construction are significant. Increased sediment transport and the resulting increased risk of high suspended sediment in the Creek as compared to Pre-FERC Order conditions is identified in the EIR as one of the main adverse impacts to steelhead during construction and was assessed quantitatively using sediment transport modeling (URS 2020a; URS 2020b) paired with a meta-analysis that interprets the likely impacts on different salmonid life-stages given suspended sediment concentration and duration of exposure (Newcombe and Jensen 1996; Final EIR Appendix F; Final EIR pages 3.4-89 and 3.4-90). Based on accepted scientific methods (the URS modeling and Newcombe and Jensen's 1996 equations), there is likely increased risk of mortality of eggs (0-20 percent) and some increased risk of injury, mortality, and/or decreased reproduction of individual fish at certain suspended sediment exposure concentrations and durations (Newcombe and Jensen 1996; Final EIR Appendix F).

The modeling also suggests there is some risk of changes to habitat: increased pool depths, reduced spawning gravel quantities, reduced access to low-terrace floodplain habitat, increased channel incision, and reduced benthic macroinvertebrate (BMI) production, but these changes are modeled to only occur in limited areas² and changes are not modeled to occur in the majority of the available habitat. The model also does not account for the Live Oak Restoration Project that will restore over 20,000 square feet of spawning habitat, over 65,000 square feet of suitable juvenile rearing habitat, and over 20,000 square feet of shallow water for fry rearing during FOCP, which will be maintained throughout the Project pursuant to the Maintenance of Spawning Gravel and Rearing Habitat Improvements in Live Oak Restoration Reach CM and after construction pursuant to the Sediment Augmentation Program CM specified as components of the Project. While the adverse impact of construction phase sediment releases may increase mortality or injury rates and decrease reproduction of steelhead, those effects occur only during specific temporary conditions such as during and immediately following modeled 2-year, 4-year, and back-to-back 2-year storm events³. The comments, however, inaccurately imply ongoing construction phase sediment impacts that are consecutive and non-stop throughout the construction years, which is not supported by the modeling. Also, habitat impacts resulting from construction phase sediment releases were modeled to occur under the same specific and infrequent events and only in a few locations within Coyote Creek. However, the Maintenance of Spawning Gravel and Rearing Habitat Improvements in Live Oak Restoration Reach and the Sediment Augmentation Program CMs would monitor for these impacts and offset these impacts with habitat restoration work within a 5-year timespan at a maximum. More detail is provided in individual responses, but when all ADSRP components are considered together (including BMPs, CMs, and VHP Conditions/AMMs), using the appropriate Pre-FERC Order CEQA baseline and significance threshold (substantial adverse effects on the Coyote Creek watershed steelhead population), construction phase adverse impacts to steelhead resulting from changes in suspended sediment would be less than significant.

Construction Phase Fish Rescue and Relocation Impacts

Commenters assert that rescue and relocation of steelhead would have significant impacts on “individual fish” under two different types of fish rescue and relocation (Final EIR page 3.4-66):

- a. Fish rescue and relocation BMP during construction-related dewatering which includes a dewatering and aquatic species rescue and relocation plan approved by NMFS and CDFW as a BMP, and
- b. The Fish Rescue and Relocation Plan which is a construction monitoring activity that includes trapping and relocating individual steelhead when water quality deteriorates.

Both types of fish rescue are intended to trade short-term potential adverse impacts to individual fish for long-term conservation and/or benefit to the Coyote Creek watershed steelhead population (Final EIR pages 3.4-88).

² Deposition is predicted to occur in limited areas, including around 7.6 inches of deposition near the Serpentine Trail Crossing, around 1.1 inches downstream of Sycamore Ave crossing, and around 3.0 inches near the U.S. Highway 101 Bridge (AECOM 2021).

³ Storms of greater size tend to fill the reservoir and actually result in a decrease in suspended sediment as erodible sediments get inundated and are less likely to erode as the reservoir fills.

The fish rescue and relocation BMP trades a low level of individual injury or mortality of steelhead during localized dewatering for long-term population conservation in the context of seismic retrofit construction activities or for population benefits in the context of habitat restoration Project components (Ogier Pond CM, Maintenance of Spawning Gravel and Rearing Habitat Improvements in Live Oak Restoration Reach, and the Phase 2 Coyote Percolation Dam CM). This risk of injury and mortality is considered to be very low (<2 percent; Final EIR pages 3.4-104 and 3.4-191) with the implementation of a dewatering plan that is prepared by a fisheries expert and would be approved by the TWG. The EIR conclusions assume that the TWG would not approve any dewatering plans that would cause significant impacts on the watershed-wide steelhead population.

The Fish Rescue and Relocation Plan is proposed because the TWG (including resources agencies that provided comments [NMFS, USFWS, CDFW, and the San Francisco Bay RWQCB]) agreed that under certain contexts (e.g., high temperatures or significant dryback) the TWG may decide that impacts to individuals may be necessary to protect the species at the Coyote Creek Watershed population level. Therefore, the Fish Rescue and Relocation Plan is only implemented at the direction of the TWG, which includes the agency with jurisdiction over the “take” of individual fish and is implemented in a manner and at times when the short-term adverse impacts to individual fish from stunning/netting, handling, and relocating minimizes the risk of long-term, more significant adverse impacts to the watershed population.

The Fish Rescue and Relocation Plan was developed and included in NMFS FOCP Technical Recommendations. When the plan was developed, the TWG recognized that the implementation of this emergency measure was intended to preserve sufficient stock for a future population within the watershed and would result in “take” of individual fish and such take was therefore authorized by NMFS as a part of the Technical Recommendations. The mortality of less than 2 percent of individuals, when considered in the context of the importance of the rescue and relocation for protecting the watershed population in emergency conditions, was determined to be a less than significant adverse impact.

Consequently, the Final EIR concludes that the anticipated impacts from both types of fish rescue and relocation are less than significant, based on the nature and infrequent implementation, benefits for the Coyote Creek watershed steelhead population, and the fact that the CEQA significance threshold used in the EIR for special status fisheries species impacts, namely whether the project would have a “substantial adverse effect” on the watershed population. Valley Water understands that the take of individuals, however, must be avoided, minimized and authorized under the federal ESA by NMFS.

Construction Phase Fish Exclusion from Downstream Habitat Impacts

Commenters assert that the Project would exclude steelhead entirely from habitat downstream of the dam which would be a substantial impact. There would still be flows moving from upstream of the dam to downstream of the dam so it is unclear how this would be a substantial impact on listed steelhead, particularly because *O. mykiss* that occur upstream of the dam are not considered listed steelhead and are not special-status species. In addition, the dam is present in the Pre-FERC Order and Future Baseline conditions, which reflect the ongoing presence of the dam in the current location since 1950 and related condition of steelhead habitat. The rationale for these baselines, and their consistency with CEQA requirements, is

discussed in the *EIR Baselines Pursuant to CEQA* section of this Master Response, above. The Project does not result in a new significant adverse effect on species habitats due to the continued presence of the dam in comparison to either the Pre-FERC Order or Future Baseline.

Construction Phase Noise and Vibration Impacts

Commenters assert that construction noise and vibration may cause significant impacts if they injure or kill steelhead. The noise and vibration analysis concluded that all noise and vibration effects would occur in dewatered or upland areas and noise and vibration would likely attenuate before reaching underwater areas where steelhead could occur to the point that injury and mortality are unlikely adverse impacts. There is no empirical scientific evidence that a substantial adverse impact on the steelhead population is likely from those temporary construction phase effects. Even if evidence were available to support a conclusion that noise and vibration might harm or be lethal to individual fish, this would again be a few individuals that would most likely be close to the dam; the effects would not be a substantial adverse impact on the watershed population, so would be less than significant under the CEQA threshold of significance.

Non-Native Species Impacts

Commenters assert that introduction of non-native species from the reservoir to downstream reaches or from imported water may be significant, but all of the non-native species detected in the reservoir have been observed downstream under the Pre-FERC Order Baseline; therefore, there would be no change in the species assemblage present downstream. Also, more of the imported water may be released from the Cross Valley Pipeline during construction, allowing for less water to be released into the FCWMZ, so if any non-native species are in the imported water, they would be released in areas that are less likely to have year-round rearing steelhead juveniles than the FCWMZ. Also, flow variability would increase during construction and in post-construction operations and the commenter has cited that as a way to decrease non-native species. Finally, implementing the Invasive Species Control Plan during and following the construction phase would remove many non-native individuals from the system. In addition, the implementation of the following CMs would reduce invasive species in the Creek in the long term as a result of ADSRP implementation: Ogier Ponds CM (which separates the ponds and Coyote Creek to add and enhance native fish habitat and deter non-native fish), the Phase 2 Coyote Percolation Dam CM (which improves fish passage), the FAHCE/FAHCE-Plus Modified post-construction operations (which reduces the amount of imported water released directly into Coyote Creek), and the Geomorphic Flows Plan which would increase flow variability, which favors native fish. Considering all Project components together, potential non-native species stressors would decrease during construction, and in the long term the Project would reduce predation and competition from non-native fish. Accordingly, such impacts would be less than significant relative to the Pre-FERC Order Baseline, and conditions for native fish would be improved by the Project.

Proper CEQA Assessment of Significance of FOCP Cumulative Impacts

Commenters assert that combined effects of the FOCP and construction phase of the ADSRP are significant, but cumulative impacts of the projects are properly analyzed in Section 3.4.5 in accordance with CEQA. Section 3.4.5 analyzes the cumulative fisheries impacts of the Project

with the FOC, and also with other probable future projects, plans and programs. It notes that the construction periods for the two projects would not overlap and concludes that the Project combined with the FOC would not cause significant cumulative impacts on the Coyote Creek watershed steelhead population. The FOC included AMMs, CMs, and a HMMP designed to minimize and considerably offset impacts on fish populations and habitats, and, similarly, the ADSRP includes BMPs, CMs, and VHP Conditions/AMMs that avoid, minimize and offset the effects of the combined FOC and ADSRP effects on the watershed and steelhead.

Delay in Chillers Under FOC Impacts

Commenters specifically assert that the delay in chiller installation has resulted in significant warm water temperature impacts from the Project, but this delay occurred during FOC implementation, and any impacts would not be attributable to the Project. The EIR assumes that chillers are already installed and are operating at the start of Project construction, and this assumption is reasonable based on current plans. Furthermore, steelhead have persisted in the FCWMZ without chillers for three years under FOC, including an extreme drought during two of those years, and monitoring in 2023 continued to find steelhead of varying age classes and in good body condition within the FCWMZ (Valley Water 2024a), meaning successful rearing and reproduction is still occurring in the system without chillers. However, the chillers in place prior to the Project (ADSRP) are predicted to provide more favorable temperatures for rearing steelhead. In addition, as explained above, FOC fisheries impacts are reduced through CMs and AMMs and the HMMP, which considerably offset impacts to steelhead through restoration of over 20,000 square feet of spawning habitat, over 65,000 square feet of suitable juvenile rearing habitat, and over 20,000 square feet of shallow water for fry rearing from the Live Oak Restoration Project.

Fish Rescue and Relocation Under FOC Impacts

Commenters specifically assert that agency directed fish rescue and relocation that occurred in 2020 and 2021 is a significant impact of the Project but the two prior fish rescues occurred during FOC and are not part of the Project. In addition, FOC fisheries impacts are reduced through AMMs and CMs and the HMMP considerably offsets impacts to steelhead through restoration of over 20,000 square feet of spawning habitat, over 65,000 square feet of suitable juvenile rearing habitat, and over 20,000 square feet of shallow water for fry rearing from the Live Oak Restoration Project.

7.2.3.1 Summary of Comments

Several comments were received on the Draft EIR related to the degree to which compliance with the VHP would adequately reduce Project impacts on biological resources, in the following contexts:

- **Applicability of the VHP to ADSRP.** Several comments suggested that compliance with the VHP, including payment of VHP impact fees, would not adequately mitigate Project impacts on certain special-status species or waters of the State.

- **Impacts on monarch butterfly, Crotch’s bumble bee, Hall’s bush-mallow, and woodland woollythreads, and mitigation of nitrogen deposition impacts.** One commenter indicated that the Project’s impacts on the monarch butterfly, Crotch’s bumble bee, Hall’s bush-mallow, and woodland woollythreads could be covered by the amended VHP after the amendment is approved. That commenter also suggested that the Project is not adequately mitigating its nitrogen deposition effects on serpentine-associated species because (a) the VHP requires payment of nitrogen deposition fees based on the number of new parking spaces a project creates and does not account for emissions during construction, and (b) nitrogen deposition fees only contribute to management of invasive species within the VHP’s reserve system, so that Project impacts on serpentine-associated special-status plants located on lands outside the reserve system would not be adequately mitigated by the Project.
- **Information on species/habitats not covered by the VHP.** Another commenter noted that certain components of the Project are not covered by the VHP and recommended that the EIR clearly describe the Project activities that will and will not be covered by the VHP within the Project Description. That commenter requested that impacts to species and habitats from activities not covered by the VHP be clearly described and that mitigation measures be included in the EIR as appropriate to address non-VHP-covered impacts.
- **VHP impact fees for impacts to waters of the State.** Another commenter asserted that mitigation of impacts on waters of the State via payment of VHP impact fees would likely not satisfy San Francisco Bay RWQCB permit conditions and that additional mitigation would be necessary. This commenter stated that specific mitigation projects should be identified to compensate for impacts to waters of the State, and that the mitigation plan would need to be part of an application for Clean Water Act Section 401 Water Quality Certification for the Project.

7.2.3.2 Master Response to Comment

VHP Overview

The VHP, approved in 2012, provides a framework for the protection and recovery of natural resources, including endangered and threatened species, while streamlining the permitting process for planned development, infrastructure, and maintenance activities. The VHP allows the County of Santa Clara, Valley Water, the Santa Clara Valley Transportation Authority, and the cities of Gilroy, Morgan Hill, and San Jose (the Permittees) to receive listed species take permits under the state and federal Endangered Species Acts for covered activities and projects they conduct and activities under their respective jurisdictions. The VHP protects, enhances, and restores natural resources in specific areas of Santa Clara County and contributes to the recovery of special-status species. Rather than separately permitting and mitigating individual projects, the VHP evaluates natural resource impacts and mitigation requirements comprehensively in a way that is more efficient and effective for at-risk species and their habitats.

The VHP was developed in consultation with the USFWS and CDFW with input from stakeholder groups and the general public. The USFWS has issued the Permittees (which include Valley Water) a 50-year permit that authorizes incidental take of listed species under the federal ESA,

while CDFW has issued a 50-year permit that authorizes take of all covered species under the Natural Community Conservation Planning Act. USFWS and CDFW also provided assurances to the Permittees that no further commitments of funds, land, or water will be required to address impacts from covered activities on covered species beyond those described in the Plan to address changed circumstances. In addition to strengthening local control over land use and species protection, the VHP provides a more efficient and effective process for protecting natural resources by creating new habitat reserves that are larger in scale, more ecologically valuable, and easier to manage than project-by-project mitigation sites.

The VHP provides take authorization resulting from VHP-covered activities for 18 special-status plants and animals (the “covered species”). The VHP includes a variety of Conservation Measures to protect and conserve these species. While the habitat conservation plan component of the VHP satisfies the requirements of the ESA, the Natural Community Conservation Plan (NCCP) component fulfills requirements of the California Natural Community Conservation Planning Act, going beyond mitigating impacts of covered activities to listed species to contribute to the species’ recovery and delisting. The VHP’s conservation strategy includes the following components (ICF International 2012):

- the acquisition of land and the creation of a Reserve System, including regional connections between protected areas;
- the long-term management, enhancement, and in some cases restoration of natural communities within the reserve system;
- the development of a comprehensive aquatic habitats conservation strategy to address the needs of covered amphibians, reptiles, and other species that use and occupy aquatic habitat types;
- the implementation of a comprehensive, long-term, adaptive management and monitoring program; and
- the implementation of avoidance and minimization measures in connection with covered activities

The reserve system is designed to protect an estimated 46,920 acres to benefit covered species, natural communities (including aquatic habitat types), biological diversity, and ecosystem function (ICF International 2012). The VHP also includes habitat restoration and adaptive management and monitoring to ensure the management, enhancement, and restoration of riparian, pond, wetland, and stream habitats, as well as grassland, chaparral, scrub, oak and conifer woodland.

The VHP includes a number of requirements and conditions that must be met by project proponents in order to obtain coverage under the VHP. Among these conditions, project proponents must implement avoidance and minimization conditions and BMPs to avoid and reduce impacts of covered activities on covered species. In addition, project proponents must pay impact fees that are based on the location, acreage, and type of land cover impacted by the project. These impact fees are used to acquire, enhance, conserve and protect land cover and habitat types required to offset impacts of covered activities and projects.

Impact fees include general land cover fees as well as additional special fees for impacts to wetland, stream, pond, riparian, and serpentine land cover types. Proponents also pay a

nitrogen deposition fee if the project will create new daily vehicle trips, such as new residential or commercial projects that will result in additional vehicles being used regularly in the VHP permit area.

VHP impact fees are then used by the Habitat Agency, which implements the VHP, to fund the conservation strategy. Projects that impact sensitive habitats such as ponds, streams, wetlands or serpentine habitats pay fees according to the extent of impacts, and the Habitat Agency then has an obligation to protect, create, restore, enhance, and/or manage such habitats in-kind, and at appropriate ratios sufficient to offset land cover and/or habitat impacts resulting from permittee activities. In this way, the proponent of VHP-covered activities compensates for the adverse impacts of the covered activities on VHP-covered species and sensitive habitats through VHP compliance, including payment of VHP impact fees.

The VHP anticipated that VHP compliance would serve to adequately mitigate impacts of covered activities and projects on covered species and sensitive habitats under CEQA, as well as the state and federal Endangered Species Acts. As stated on pages 1-27 and 1-28 of the VHP, “It is expected that the conservation provided in this Plan will be sufficient to meet all CEQA mitigation standards for impacts on the special-status species and natural communities that are covered in this Plan. Barring major changes, it is expected that future CEQA documents for activities that receive take coverage under this Plan will incorporate the Conservation Measures in this Plan by reference to comply with CEQA for the covered species and natural communities addressed in this Plan” (ICF International 2012). As explained in the Final EIR (page 3.5-64), VHP compliance is considered an integral part of the ADSRP, rather than a mitigation measure. Accordingly, the avoidance, minimization and mitigation provided by compliance with the VHP is evaluated in the effects analyses as a part of the ADSRP, and for many impacts on terrestrial biological resources, no additional mitigation is necessary due to VHP compliance.

The VHP also recognized that the conservation value of the VHP would extend to non-covered biological resources as well. On page 1-28, the VHP states, “as an NCCP, the Plan provides for broad-based planning to preserve natural communities at the ecosystem scale. Many of the Conservation Measures in the Plan will also benefit other special-status species (i.e., species not covered by the Plan); such measures may be sufficient to meet CEQA standards for these other species as well” (ICF International 2012).

Applicability of the VHP to ADSRP

ADSRP is explicitly described in the VHP as a covered project (VHP pages 2-58 to 2-64). At the time of the VHP’s preparation, some details of the Project had not yet been developed. As a result, the VHP included thresholds or conditions on some of the parameters of the Project, indicating that if the Project exceeded those thresholds or conditions, the marginal impacts resulting from such exceedances would not be covered by the VHP.

During preparation of the Draft EIR, Valley Water reviewed those parameters; coordinated with the Habitat Agency, USFWS, and CDFW regarding those parameters; and determined that the Project exceeded the thresholds for VHP coverage, or otherwise included impacts that would not be VHP-covered, with respect to several issues. All these issues are explicitly identified as not being covered by the VHP, and are discussed, on pages 3.5-62 and 3.5-63 of Section 3.5.3, *Methodology and Approach to Impact Analysis*, of the Final EIR. Specific Project activities that

are not considered to be covered by the VHP, and how the EIR considered impacts of these activities, are as follows:

- Dewatering of Anderson Reservoir for approximately one year longer than 3.5 years.
- Rescue and relocation of steelhead
- Differences in dam releases between those covered by the VHP and those that may occur during Project construction

All other proposed Project activities are covered by the VHP. Valley Water would comply with all applicable VHP conditions and pay the necessary land cover type and specialty impact fees, such as those for serpentine, wetland, aquatic, and riparian habitats. VHP compliance will reduce many Project impacts on terrestrial biological resources, including wetland, open water and riparian habitat types and related aquatic and amphibious species, to less than significant levels. VHP compliance would directly benefit VHP-covered species and associated sensitive communities by contributing to the conservation strategy implemented by the Habitat Agency, as described above. VHP compliance would also benefit a number of non-VHP-covered species associated with VHP protected land cover and habitat types that may be affected by the Project. As discussed above and stated in the VHP itself, the VHP's conservation strategy will benefit these species through conservation, enhancement, and management of suitable habitat even though those species are not formally covered by the VHP.

Nevertheless, some impacts of Project activities are not adequately reduced to less than significant levels through VHP compliance alone, even though the activities themselves are considered VHP-covered. For example, the VHP does not avoid, minimize, and mitigate impacts of covered activities on special-status species associated with San Francisco Bay, and the VHP's conservation program does not include, and thus does not benefit, these species' baylands habitats. Although the VHP does include measures that avoid, minimize, and compensate for impacts of covered projects on aquatic habitats supporting fish, the VHP's conservation program does not include measures specifically targeting fish. The Final EIR therefore includes additional mitigation measures to avoid, minimize, and compensate for impacts on fish and baylands species.

Although Tiburon paintbrush is a VHP-covered species, Project impacts on this species via nitrogen deposition are not covered by the VHP, which only covers impacts on this species resulting from VHP preserve management. The Final EIR includes a mitigation measure to mitigate the Project's impacts on this species. Although VHP compliance would reduce impacts on certain non-covered species, including fish, eagles, pallid bat, and San Francisco collinsia, additional measures are necessary to reduce impacts on those species to less than significant levels. The Final EIR includes mitigation measures to further reduce impacts on those species. As a result, mitigation measures are specified in the Final EIR to address biological impacts of non-VHP-covered activities, as well as impacts that are not reduced to less than significant levels through VHP compliance alone. These mitigation measures include Mitigation Measures TERR-1a(1) (Invasive Plant Management at Valley Water's Tiburon Paintbrush Population); TERR-1a(4) (San Francisco Collinsia Conservation Measures); TERR-1c(1) (Special-Status Species Avoidance and Minimization Measures During Year 6 Reservoir Dewatering); TERR-1c(2) (Nonnative Species Management in Upper Penitencia Creek Watershed); TERR-1e (Nesting Eagle Avoidance and Minimization Measures); TERR-1g (Burrowing Owl Impact Avoidance); TERR-1h(1) through TERR-1h(4) related to pallid bats; and TERR-1j (Contribution to Baylands Predator Management).

Responses to VHP-Related Comments

Impacts on Monarch Butterfly, Crotch's Bumble Bee, Hall's Bush-Mallow, and Woodland Woollythreads

Commenters stated that the Project's impacts on the monarch butterfly, Crotch's bumble bee, Hall's bush-mallow, and woodland woollythreads could be covered by the amended VHP after the amendment is approved, suggesting that VHP compliance would not adequately benefit these species until the amendment is approved. Hall's bush-mallow is no longer present in the Project's impact areas (Valley Water 2014, 2021a), and the species would therefore not be directly affected by the Project. Although the monarch butterfly, Crotch's bumble bee, and woodland woollythreads are expected to be directly affected by the Project, implementation of proposed avoidance and minimization measures, in combination with Valley Water compliance with the VHP, would reduce impacts on these species to less than significant levels. The following paragraphs discuss why long-term impacts of the Project (including indirect impacts from nitrogen deposition) on the monarch butterfly, Crotch's bumble bee, Hall's bush-mallow, and woodland woollythreads would be low and how compliance with the VHP will benefit these species, whether or not the VHP is amended to include these as covered species.

The EIR specifies that impacts on the monarch butterfly would be minimized via implementation of the Milkweed Survey Plan, unless and until the monarch butterfly is added to the VHP as a covered species, as specified in Impact TERR-1b of the EIR. Implementation of that Plan would minimize impacts on the monarch's larval hostplant and avoid direct loss of monarch eggs, larvae, or pupae during Project construction. In addition, the Project Description has been revised to indicate that the Crotch's Bumble Bee Avoidance Plan currently being implemented for the FOCF would be implemented during ADSRP construction as well, unless and until the Crotch's bumble bee is added to the VHP as a covered species or is no longer legally protected. Implementation of that Plan would minimize impacts on the Crotch's bumble bee's habitat and avoid direct loss of individuals, including active nests. Following Seismic Retrofit construction, woodland woollythreads is likely to colonize short-term impact areas in serpentine habitat north of the dam's spillway. As described in Table 3.5-4 of the Final EIR, woodland woollythreads was most abundant in the vicinity of the Seismic Retrofit component area after a fire cleared expansive areas of tall, dense woody vegetation immediately north of the dam's spillway. As trees and shrubs naturally recolonized the burn area, woodland woollythreads remained fairly abundant in gaps between trees and shrubs. However, as those trees and shrubs have matured and open gaps between them have filled in, that woody vegetation has outcompeted woodland woollythreads for light, and the abundance of woodland woollythreads has declined. This was demonstrated by the decline in abundance of the species between 2013-2014 (approximately 112,800 individuals) and 2021 (approximately 3,500 plants) (Valley Water 2021). Seismic Retrofit construction will impact trees and shrubs in some areas immediately north of the spillway, and the resulting open habitat will be suitable for recolonization by woodland woollythreads. As a result, Project impacts on these three species would be relatively limited, and no substantial, long-term impacts on any of these species will result from the Project. Because Hall's bush-mallow and woodland woollythreads often occur in serpentine communities, deposition of nitrogen emitted by Project activities could adversely affect these species by supporting invasive plants. The VHP's coverage of nitrogen deposition-related impacts, which would benefit these rare plants in addition to VHP-covered species, is discussed further in the next section.

Further, the Project's compliance with the VHP would benefit the monarch butterfly, Crotch's bumble bee, Hall's bush-mallow, and woodland woollythreads. If these species are formally added to the VHP as covered species (as proposed), then the VHP's conservation program will include measures and actions specifically designed to conserve and enhance these species' habitat and populations. However, even if they are not considered VHP-covered species, these four species currently benefit from the VHP's conservation program and thus benefit from the conservation funded by impact fees paid by covered projects such as the ADSRP. Monarch butterflies, Crotch's bumble bees, Hall's bush-mallow, and woodland woollythreads currently occur in VHP reserves, and the VHP's conservation strategy (including management related to nitrogen deposition impacts) benefits these species. VHP management of grassland and riparian habitats supporting milkweed, such as through appropriate grazing management and invasive species management, maintains and enhances milkweed populations, thereby benefitting both the monarch butterfly (which uses milkweed as its larval host plant) and Crotch's bumble bee (which uses milkweed heavily as a nectar and pollen source; California Bumble Bee Atlas 2023). Similarly, appropriate management of grassland, scrub, and chaparral habitats supporting Crotch's bumble bee nesting habitat and floral resources maintains and enhances suitable habitat conditions for that species. Hall's bush-mallow and woodland woollythreads occur primarily on serpentine substrates, and the VHP's conservation program focuses heavily on conservation, management, and enhancement of serpentine land cover types. The same management measures that benefit serpentine grassland-associated special-status species that are currently covered by the VHP benefit Hall's bush-mallow and woodland woollythreads as well. As a result, the Project's payment of VHP impact fees (including general land cover fees and specialty fees such as serpentine impact fees) will contribute directly to a conservation program that benefits the monarch butterfly, Crotch's bumble bee, Hall's bush-mallow, and woodland woollythreads. In summary, with implementation of avoidance and minimization measures, and Project VHP compliance, the Project's impacts on these species would be less than significant, regardless of when agency approval of the VHP amendment is issued. Valley Water acknowledges that if there is the potential for incidental "take" of any of these species associated with the Project, such take would have to be authorized (to the extent take approval is necessary for listed species or state candidate species) on a Project-specific basis, unless and until the agencies approve the VHP amendment, to expand its take authorization. However, the actual avoidance, minimization, and mitigation of effects are not tied to approval of that amendment.

Nitrogen Emission Impacts

Commenters stated that the Project needs to provide additional mitigation to offset nitrogen emission impacts; however, this comment is based on a misinterpretation of the application to the ADSRP of VHP's strategy to mitigate nitrogen deposition effects of VHP-covered activities on VHP covered species. The VHP covers impacts of nitrogen emissions from all VHP-covered activities, including emissions during construction of VHP-covered projects as well as new daily vehicle trips, even though the mechanism for collecting impact fees to fund Conservation Measures to offset nitrogen deposition impacts is related to only a subset of VHP activities – those creating new daily vehicle trips. The VHP includes several statements indicating that VHP-covered nitrogen deposition impacts are not limited to nitrogen emissions solely from new daily vehicle trips:

- Page 4-67: “Indirect impacts of increased nitrogen deposition on natural communities and covered species are anticipated to result from urban development and rural development covered under the Plan. These covered activities would result in increased air pollutant emissions from passenger and commercial vehicles *and other industrial and nonindustrial sources.*” (Emphasis added.)
- Page 4-77 distinguishes covered nitrogen emissions from “increased vehicular use” and “new major point sources of nitrogen deposition” such as “new power plant, large diesel generator, or other facilities”, the latter being subject to additional review by the USFWS and CDFW, if proposed. Had nitrogen emissions from construction of VHP-covered projects such as ADSRP been considered an impact that required additional review, that detail would have been clearly stated in this section.
- Page 9-30: “The nitrogen deposition fee addresses indirect impacts of covered activities and is based on the Habitat Plan costs related to mitigating the impacts of airborne nitrogen deposition”; no distinction was made between emissions from new daily vehicle trips and emissions from other covered activities, such as construction of VHP-covered projects.

With the exception of “new major point sources of nitrogen deposition” such as power plants, the VHP intended for all nitrogen deposition associated with VHP-covered activities to be addressed via management of serpentine habitats funded by the impact fee associated with new daily vehicle trips. This approach is confirmed by Table 9-10 of the VHP, which documents how the nitrogen deposition fee was calculated. The fee was calculated by dividing the total costs of mitigation related to nitrogen deposition resulting from VHP-covered activities (which was intended to include construction-related nitrogen deposition) by the number of new vehicle trips in the VHP permit area.

On December 4, 2023, Valley Water met with Edmund Sullivan and Gerry Haas of the Habitat Agency to discuss this comment, and the Habitat Agency confirmed the intent of the VHP as described above. Although VHP nitrogen deposition fees are paid only for new vehicle trips, under the VHP they are intended to fund all necessary nitrogen-related mitigation for impacts of VHP-covered activities, including construction. Therefore, because ADSRP is a VHP-covered project, impacts of its nitrogen emissions from construction are covered by the VHP. This is the case even though the Project’s nature does not require payment of VHP nitrogen deposition fees.

Effects of the Project’s nitrogen emissions on special-status plants that are not covered by the VHP, including serpentine-associated species such as woodland woollythreads and Hall’s bush-mallow, are offset by the Project’s VHP compliance for reasons discussed under *Impacts on Monarch Butterfly, Crotch’s Bumble Bee, Hall’s Bush-Mallow, and Woodland Woollythreads* above. The Project is contributing VHP impact fees that will help fund the VHP’s conservation program. That conservation program provides for the management of serpentine communities both for VHP-covered species and for the serpentine community as a whole, thereby benefiting any species (whether covered by the VHP or not) occurring in serpentine communities.

Impacts on Serpentine-Associated Special-Status Plants

The comment suggesting that the Project’s impacts on serpentine-associated special-status plants located on lands outside the reserve system would not be adequately mitigated by the

Project is inconsistent with the intent and implementation of the VHP. On page 5-138, the VHP states: “Most of the serpentine areas in the study area are expected to be acquired as part of the Reserve System”, and thus, the Project would have very limited impacts on serpentine-associated communities and species that are not eventually enrolled in the VHP’s Reserve System. Furthermore, the VHP’s conservation strategy uses funds provided by projects that must pay the nitrogen deposition fee to mitigate impacts of all VHP-covered activities on serpentine-associated special-status plants. It is not necessary that the VHP fund management to address nitrogen deposition at every location where serpentine-associated special-status plants occur in order for the VHP to adequately offset nitrogen deposition effects of covered activities.

Information on Impacts to Species/Habitats Not Covered by the VHP

Commenters requested that impacts to species and habitats from activities not covered by the VHP be clearly described and that mitigation measures be included in the EIR as appropriate to address non-VHP-covered impacts. This information is included on pages 3.5-62 and 3.5-63 in Section 3.5.3, *Methodology and Approach to Impact Analysis*, of the Final EIR and *Applicability of the VHP to ADSRP* above. Individual impact summaries in Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, of the Final EIR also discuss which impacts on species or habitat are or are not covered, and mitigation measures are included in the Final EIR as necessary to address non-VHP-covered impacts.

VHP Impact Fees for Impacts to Waters of the State

Valley Water disagrees that the only mitigation provided by ADSRP for impacts to waters of the State is the payment of VHP impact fees. Valley Water further disagrees with the San Francisco Bay RWQCB’s assertion that payment of VHP impact fees would not provide adequate mitigation for impacts on waters of the State under CEQA, the federal Clean Water Act Section 401, and the Porter-Cologne Water Quality Control Act.

The ADSRP fully avoids, minimizes and mitigates project impacts to waters of the State. The ADSRP implements Valley Water BMPs and VHP AMMs, and complies with VHP Conditions to avoid and minimize impacts to waters of the State. The VHP not only contains measures to avoid, minimize, and mitigate impacts from covered activities on listed and sensitive species, but also measures to avoid, minimize, and mitigate impacts on sensitive habitats, including riparian, pond, wetland, and aquatic habitat types (see Final EIR Section 2.11.1, *Best Management Practices*, and VHP Section 6.5). As stated in the EIR, Valley Water would implement numerous general, water quality, and biological resources BMPs and VHP AMMs to avoid and minimize adverse impacts on aquatic, riparian, and wetland habitats, including waters of the State. These BMPs and VHP conditions are listed in the impact analysis for Impacts TERR-2 and TERR-3, together with an explanation of how they serve to minimize impacts on those habitats. See Final EIR Section 3.5 on how Valley Water BMPs, VHP conditions, and VHP AMMs apply to each terrestrial biological resource, including riparian, pond, wetland, and aquatic habitat types, as summarized in EIR Tables 3.5-6, 3.5-7, and 3.5-8, respectively. BMPs are described in Table 2-21 in Chapter 2, and applicable VHP conditions and AMMs are described in Appendix A.

Further, the ADSRP proposes two types of compensatory mitigation to offset ADSRP impacts to waters of the State. It is not the case that the payment of VHP fees is the sole mitigation for impacts to waters of the State.

First, Valley Water proposes permittee-responsible mitigation comprised of implementation of the following habitat restoration and enhancement Conservation Measures to offset significant adverse effects to all waters of the State habitat types: Ogier Ponds, maintenance of the Live Oak Restoration Reach and North Channel Reach, and the Sediment Augmentation Program.

Table 3.5-16 in the Final EIR summarizes the net impacts of ADSRP activities on waters of the State, considering both loss of waters from construction activities and creation and restoration of waters from Project Conservation Measures. The Project would result in a net gain in waters of the State of approximately 10.22 acres, owing to the extensive perennial stream, coastal and valley freshwater marsh, and riparian habitat creation and restoration that would result from the Ogier Ponds Conservation Measure. The Project would result in a net loss of reservoir (approximately 18 acres), pond (2.32 acres), intermittent stream (0.04 acre), and seasonal wetland (0.05 acre) land cover types, but a net increase in perennial stream (10.54 acres), coastal and valley freshwater marsh (0.34 acre), and riparian (19.75 acres) land cover types. There would be a net gain, not a net loss, in wetlands, including riparian wetlands.

Implementation of the Conservation Measures results not only in replacement of the acreage of waters of the State (with a net increase), but more importantly, it improves and enhances ecological functions and services of waters relative to baseline conditions. On an acreage basis, the majority of Project impacts to waters of the State are to reservoir (18 acres) and riparian (19.75 acres) land cover types. Reservoir land cover provides some habitat for fish and waterbirds, but the number of species supported by this land cover type is relatively low. As described in Impact TERR-2 in the Final EIR, the riparian habitat restored by the Ogier Ponds CM would have higher ecological functions and services than much of the impacted riparian habitat. For example, much of the impacted riparian habitat at Ogier Ponds consists of narrow stringers of riparian trees along the edges of Ponds 1 and 2, or riparian habitat around Pond 5 that is not in-line with Coyote Creek. In contrast, the riparian habitat that would be restored by the Ogier Ponds CM would include a broad, diverse corridor of riparian habitat that is immediately adjacent to the realigned creek channel and that therefore both benefits the channel (providing shade, woody debris, and organic material to the creek) and receives benefits from the channel (e.g., in the form of insects that hatch in the creek and are then fed on by terrestrial riparian animals). Therefore, the restoration of riparian habitat along the realigned creek channel at Ogier Ponds would compensate for Project impacts on riparian habitats.

It is important to note that the purpose of the Ogier Ponds CM is to convert upland habitats and some open water habitats providing lower ecological functions and services to a high ecological function and service riparian corridor, including low flow channel and connected floodplain with side channels and alcove areas, with offline open water ponds. As endorsed by the San Francisco Bay RWQCB in Comment A6-29, offset of open water habitat is not 1:1 due to the purpose of the restoration project, but ecological functions and services are improved while attaining no net loss of wetlands, including riparian wetlands.

Further, the Conservation Measures offset impacts of dredge and fill on the reservoir, notwithstanding the larger footprint of the base of the dam provided to enhance public safety and the spoils deposit area, because the reservoir will still refill to provide open water reservoir

habitat area and beneficial uses like those in the baseline condition, just at a slightly lesser volume of water and at shallower depths over the in-reservoir stockpile area. Second, in addition, the ADSRP proposes to pay VHP impact fees for impacts to land cover and habitat types comprising waters of the State. As stated on page 3.5-200 of the Final EIR, the Interagency Review Team, including the USACE, CDFW, and the San Francisco Bay RWQCB, have approved the VHP as an In Lieu Fee Program for impacts to waters of the U.S., waters of the State, and CDFW-jurisdictional habitats. The VHP specifically sets biological goals for land cover types that constitute jurisdictional resources. For example, the VHP Conservation Strategy includes specific biological goals for aquatic resources, including biological objectives for the creation, restoration, and preservation of riparian, stream, pond, and wetlands habitat types. By way of example, VHP biological objectives for aquatic resources include restoration or creation, management, and preservation of an estimated 339 acres of riparian forest and scrub, 75 acres of wetlands, 72 acres of pond, and 10.4 miles of stream within the Reserve System. See VHP Chapter 5 (including pages 5-75, 5-76, 5-109, and 5-122 and Table 5-12). The VHP serves as both an approved In Lieu Fee Program and as a landscape and watershed-level framework for compensatory mitigation for impacts to jurisdictional waters.

As determined by USACE, even prior to approval of the In Lieu Fee program in its issuance of Regional General Permit 18 (RGP 18) in 2021, the payment of VHP fees to the Habitat Agency for implementation of aquatic habitat restoration, creation, enhancement, and preservation fully complies with all federal CWA policies and regulations governing mitigation for impacts to jurisdictional waters. USACE supported this determination by conducting a point-by-point compliance analysis of VHP compensatory mitigation requirements for aquatic habitat types as compared to requirements of the federal CWA Mitigation Rule (33 CFR Part 332) (Federal Mitigation Rule) (*Compensatory Mitigation Strategy for Santa Clara Valley Habitat Plan Regional General Permit Prior to Approval of a Proposed In-Lieu Fee Program*, USACE, January 15, 2016) (RGP Mitigation Strategy). USACE determined that permit applicants paying VHP fees would comply with each and every requirement of the Federal Mitigation Rule, including requirements designed to implement the “no net loss” of aquatic resources policy. In fact, USACE determined that providing permittee-responsible mitigation by payment of VHP fees for impacts to aquatic habitat types “would provide a ‘net gain’ of aquatic resource functions and acreage.” See RGP Mitigation Strategy, page 6. USACE concluded in issuing the RGP that payment of VHP fees for impacts to aquatic habitat types would be appropriate to further the Valley Habitat Agency’s “successful and [Federal Mitigation Rule]-compliant strategy [and] would avoid the need to require applicants to mitigate for impacts to aquatic resources twice (once pursuant to Section 404 and once pursuant to the VHP).” See RGP Mitigation Strategy, pages 1 to 2. Similarly, even before approval of the In Lieu Fee Program, the Porter-Cologne Water Quality Control Act authorized the provision of compensatory mitigation to offset impacts to waters of the State within the VHP plan area by payment of VHP fees. In 2019, prior to USACE’s reissuance of RGP 18, SWRCB approved and adopted State Wetland Definition and Procedures for Discharge of Dredged or Fill Material to Waters of the State (SWRCB April 2, 2019) (Waters of the State Regulations). The Waters of the State Regulations incorporate the Federal Mitigation Rule almost verbatim into Appendix 1, Subpart J of the Regulations. The Waters of the State Regulations also provide pursuant to the definition of “Watershed Plan” (Waters of the State Regulations, page 17), that because the VHP is an NCCP that includes biological goals for aquatic resources and that was adopted prior to December 31, 2020, it “shall be used by the permitting authority as a watershed plan for such aquatic resources.” In cases where an appropriate

watershed plan is available, the permitting authority must use a watershed approach to compensatory mitigation based on the available watershed plan (Waters of the State Regulations §230.9(c)(1); Federal Mitigation Rule § 332.3(c)).

Now with the approval of the VHP as an In Lieu Fee program, provision of In Lieu Fees as compensatory mitigation is now the preferred form of compensatory mitigation for jurisdictional waters under both the Federal Mitigation Rule [33 CFR §§ 332.3(a)(1); 332.3(b)(3)] and the WOTS Regulations Appendix A, Subpart J. [Appendix A, Subpart J, §§ 230.93(a)(1); 230.93(b)(3); 290.93(c)(1)] These state and Federal regulations prioritize mitigation via approved In Lieu Fee Programs as preferable to provision of permittee responsible mitigation. In addition, the State and federal regulations allow In Lieu Fee credits to be used to provide out-of-kind restoration as compensatory mitigation; for example, use of wetland or riparian habitat In Lieu Fee program credits as compensatory mitigation for open water habitat impacts, particularly when the ecological functions and services associated with the credits and implementation of the related restoration and enhancement in the watershed will improve aquatic ecological functions and services within a watershed (e.g., by replacing low ecological function and service habitat types with higher function and service types, such wetlands and restored stream corridor serve as breeding, rearing, migration and foraging habitat for listed species). [33 CFR §§ 332.3(e)(2); Appendix A, Subpart J, § 230.93(c)(2)] Accordingly, Valley Water will pay In Lieu Fee Program impact fees for all land cover types associated with jurisdictional waters that are impacted during construction of the Project.

The Federal Mitigation Rule also expressly recognizes that “compensatory mitigation projects used to fulfill the compensation requirements for [USACE] permits may be used to satisfy the environmental requirements for other programs, such as wetlands regulatory programs administered by tribal, state and local governments” 33 CFR §332.3(j)(1); 73 Federal Register 19635–91636 [subparagraph (j)] (April 10, 2008). In addition, the Federal Mitigation Rule specifically provides that HCP compensatory mitigation programs that are approved and provide mitigation under the ESA may also provide compensatory mitigation for discharges of dredge and fill material to jurisdictional waters, so long as the same credit is not used to provide mitigation for more than one permitted activity. See Federal Mitigation Rule, 33 CFR 332.3(j)(3).

While applicable state and federal regulations prioritize the payment of In Lieu Fee Program fees as compensatory mitigation for impacts to jurisdictional waters, in light of the magnitude of the waters of the state affected by the ADSRP, Valley Water has provided the permittee responsible mitigation described in the EIR to supplement the payment of VHP In Lieu Program fees to further assure full compensatory mitigation for impacts to waters of the State. In addition, Valley Water will work with the Habitat Agency to identify specific mitigation that would be implemented with the In Lieu Program fees paid to better track the correlation between impacts to waters of the state and compensatory mitigation. Valley Water has begun coordination with the Habitat Agency regarding how impact fees related to jurisdictional habitats can be used for stream, wetland, and riparian habitat restoration. Valley Water has preliminarily identified some potential opportunities for restoration along Coyote Creek through the Coyote Creek Native Ecosystem Enhancement Tool and will coordinate with the Habitat Agency, USACE, San Francisco Bay RWQCB, and CDFW to further identify, and begin developing the details of, mitigation that would be implemented by the Habitat Agency to compensate for Project impacts on jurisdictional habitats.

Because implementation of the ADSRP Conservation Measures and payment of VHP impact fees would provide adequate avoidance, minimization and mitigation for impacts on waters of the State under CEQA, this mitigation approach need not be described further to support CEQA review of the Project. Further information regarding implementation of the Conservation Measures and the specific compensatory mitigation that will be implemented by Valley Water and with In Lieu Program fees paid by Valley Water will be described in a draft HMMP submitted for ADSRP permitting by the USACE, San Francisco Bay RWQCB, and CDFW.

7.2.4.1 Summary of Comments

Several comments were received on the Draft EIR related to the closure of the Rosendin Park Area, which is within Anderson Lake County Park, in the following contexts:

- **Timeframe and locations of closure.** Commenters expressed concern about the length of the proposed closure of the Rosendin Park Area. Commenters stated that the park does not require closure throughout the entire construction period. Commenters also expressed concern over the entire park being closed and emphasized that the dam area, which is the primary location of proposed blasting associated with the Project, is already closed off to the public and therefore there is no need to close the entire park. Some commenters recommended reinforcing the existing barriers while keeping the remaining parts of the Rosendin Park Area open. Commenters also suggested that the park could be closed only on days where blasting will occur to limit the length of the closure.
- **Restriction of recreational access during construction.** Commenters explained that they rely on the Rosendin Park Area and related trails for physical and mental health. Commenters expressed concern that themselves, their children, and their pets will not be able to enjoy the park and related trails due to the proposed closure.
- **Emergency evacuation access through Rosendin Park Area during construction.** Commenters expressed concern that the closure of Rosendin Park Area will restrict emergency evacuation access for Holiday Lakes Estates residents via the existing egress through the park. Commenters expressed concern about the locked gate at the Holiday Drive to the Rosendin Park Area and stated that nobody would have a key to open it on such short notice in the event of a wildfire.

7.2.4.2 Master Response to Comment

Timeframe and Locations of Closure

The originally proposed timeframe and location of the closure of the Rosendin Park Area were discussed in Draft EIR Chapter 2, *Project Description*, and Draft EIR Section 3.18, *Recreation*. The response below encompasses changes to the closure of trails within Lake Anderson County Park, including trails within and near the Rosendin Park Area, which are reflected the Final EIR.

As discussed in Chapter 2, *Project Description*, and in Section 3.18, *Recreation*, in the Draft EIR, all trails in the Rosendin Park Area would be closed during the entirety of Seismic Retrofit construction for public safety purposes. Closures would include the Dam Crest Trail, Cochrane Trail, Lakeview Trail, Rancho Laguna Seca Trail, and the Serpentine Trail. The Rancho Laguna Seca Trail and the Cochrane Trail would be dead-end trails with a turnaround at the construction site during Project construction. Additionally, the Live Oak Picnic Area within Anderson Lake County Park, which has been partially closed throughout FOCIP implementation, would be entirely closed through Year 8 (final year) of Seismic Retrofit construction.

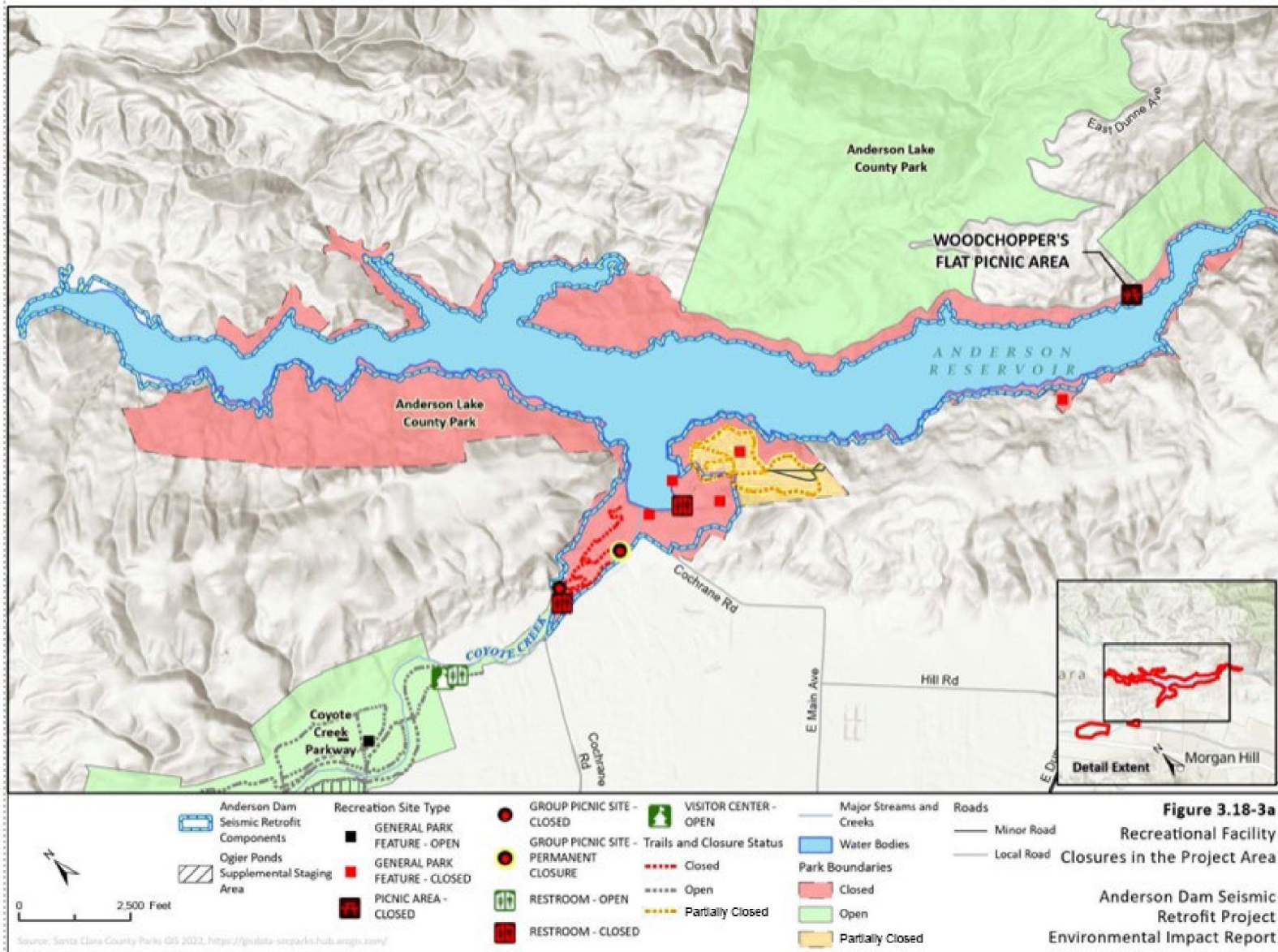
Due to the proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analysis conservatively assumed the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to limit the length, duration, and extent of the closure of the Rosendin Park Area in the following ways:

- Temporary park closures in the Rosendin Park Area would occur during years in which blasting activities would occur, which are tentatively scheduled for Years 4, 5 and/or 6 of Seismic Retrofit construction. Initial blasting activities are anticipated to present the most public safety risks throughout the duration of blasting. Once the initial blasting activities have occurred, the public safety risk would be reduced substantially, as the blasting activities would occur inwards towards the dam/reservoir and the initial blasting would form an outer rock wall that would act as a protection barrier for the park. The initial blasting is anticipated to occur sometime during Year 4, 5, or 6 of the Seismic Retrofit construction and when the blasting is initiated, a full closure of the entire park including all trails is necessary to allow the blasting to complete in for 3 to 4 months to protect public safety during the initial blasting activities. Once the initial blasting is completed after 3 to 4 months, those trails further from Basalt Hill Borrow Area would be re-opened. However, those trails closest to the Basalt Hill Borrow Area, specifically the Lakeview Trail, Gray Pine Trail, and Rosendin Trail would remain closed for the duration of blasting (see revised Figure 3.18-3b below).
- The partial closures of Rancho Laguna Seca and Cochrane trails would remain as described in the Draft EIR and would extend throughout the entire construction period. Full closure of these trails is anticipated to occur for 3 to 4 months during the initial blasting activities associated with the Project with portions of them, as indicated on the revised figure below, reopened after the initial blasting period. The following changes to Table 3.18-3 and Figure 3.18-3b have been made to reflect the revised closures of the Rosendin Park Area.

Section 3.18, *Recreation*, Table 3.18-3 (Closures and Changes to Recreational Facilities in the Project Area), on Final EIR pages 3.18-39 and 3.18-40 has been revised as follows:

Recreational Facility	Temporary Changes	Dates of Existing Conditions (FOCP) Closure	Dates of Project Related Construction Years Related to Temporary Closure	Duration of Project Related Temporary Closure (years)	Permanent Changes
Rosendin Park Area	Portions of trails that lead to/from Anderson Boat Ramp closed through FOCP, and all trails in Rosendin Park Area would be closed during <u>the initial blasting phase of construction of the seismic retrofit which would last for approximately 3-4 months. Trails closest to Basalt Hill Borrow Area would be closed for the duration of blasting.</u>	2020-2024	2024-2032 Years 4, 5, and/or 6	<u>12 Complete closures would last for approximately 3-4 months; partial closures of Rancho Laguna Seca and Cochrane trails would extend throughout the entire construction period. Lakeview Trail, Gray Pine Trail, Rosendin Trail and portions of Rancho Laguna Seca and Cochrane Trails would remain closed for the duration of blasting.</u>	No permanent changes are proposed at this recreational facility.

Section 3.18, *Recreation*, Figures 3.18-3a and 3.18-3b, on Final EIR pages 3.18-41 and 3.18-43:



The following text changes to the Draft EIR have been made to reflect the revised closures of the Rosendin Park Area. None of the corresponding changes to the impact analysis text would result in changes to impact significance conclusions.

Chapter 2, *Project Description*, on Final EIR pages 2-72 and 2-73:

Temporary Trail Closures ~~Dam Crest Trail, Cochrane Trail, Lake View Trail, Rancho Laguna Seca Trail, and Serpentine Trail~~

Throughout FOCIP implementation and extending throughout the construction of the Project, ~~all~~ certain trails and public access to Anderson Dam and Reservoir would be closed for all or portions of Seismic Retrofit construction to provide public safety. Closures would include the Dam Crest Trail, Cochrane Trail, Lakeview ~~View~~ Trail, Rancho Laguna Seca Trail, Gray Pine Trail, Rosendin Trail, and the Serpentine Trail within Anderson Lake County Park. The Dam Crest Trail would be temporarily closed throughout Project construction, during which the trail would be removed and replaced. The Serpentine Trail, which connects the Live Oak Picnic Area to the dam crest, has also been closed by the FOCIP and would remain closed throughout Project construction. The Cochrane Trail, Lakeview ~~View~~ Trail, and Rancho Laguna Seca Trail would also be fully closed for 3 to 4 months during the initial blasting phase of Seismic Retrofit Components construction which would occur sometime during Year 4, 5, or 6 of Project construction. Aside from the trail closures within the Project boundaries of the BHBA (Lakeview Trail), there would be no planned closures of the Rosendin Park Area before Year 4 or after Year 6 of Project construction. Cochrane Trail and Rancho Laguna Seca Trail would partially reopen after the initial blasting phase is completed. Lakeview Trail, Gray Pine Trail, and Rosendin trail and portions of Rancho Laguna Seca and Cochrane Trails would remain closed for the duration of blasting in Years 4, 5, and/or 6. Project construction, and would be reopened following Project construction to connect the boat launch parking lot to the Rosendin Park Area of Anderson County Lake Park.

Park closure and construction activities associated with the Project would involve the installation of construction fencing around the perimeter of Rosendin Park for public safety. During closure of the park in Years 4, 5, and/or 6, there would be staff hired by the construction contractor onsite 24/7 to open all gates within the park in the event of an emergency.

Section 3.1, *Aesthetics*, on Final EIR page 3.1-42:

Aside from the Rosendin Park Area, a~~All~~ the park areas located within the study area would be closed to public use throughout the duration of Seismic Retrofit construction. The Rosendin Park Area would be fully closed for 3 to 4 months during the initial blasting phase of construction and would partially reopen following this period with the exceptions of Lakeview, Gray Pine, Cochrane, and Rosendin Trails, which would all remain closed for the duration of blasting in Years 4, 5, and/or 6. There would be no planned closures of Rosendin Park Area before Year 4 or after Year 6 of Project construction. Therefore, in most locations, ~~no~~ park users would not have public views of construction areas, aside from within the Rosendin Park Area, where park users would have limited views of construction areas during certain periods of construction.

Section 3.1, *Aesthetics*, on Final EIR page 3.1-47:

The Rosendin Park Area would be largely fully closed for 3 to 4 months during the initial blasting phase of construction and would partially reopen following this period with the exceptions of Lakeview, Gray Pine, Cochrane, and Rosendin Trails, which would all remain closed for the duration of blasting (as described above under *Tree Removal [Year 1]*) during Seismic Retrofit construction. Recreators using the these open trails in the Rosendin Park Area, namely which would include all the trails in Years 2 and 3, as well as the Rancho Laguna Seca Trail outside the 3 to 4 month initial blasting period in Year 4, 5, or 6, and any reopened sections of the Cochrane Trail after blasting during Years 4 through up to Year 6, would have views of the reservoir's lower water levels.

Section 3.1, *Aesthetics*, on Final EIR page 3.1-48:

With the exception of the Rosendin Park Area, which would be fully closed for 3 to 4 months during the initial blasting phase of construction and would partially reopen following this period with the exceptions of Lakeview, Gray Pine, Cochrane, and Rosendin Trails, which would all remain closed for the duration of blasting largely closed throughout Project construction, construction equipment and activities associated with these work phases would not be visible within most of Anderson Lake County Park due to park closure (**Figure 3.1-4**, Photo 1 and Photo 2).

Section 3.1, *Aesthetics*, on Final EIR page 3.1-49:

Partial views of construction activities associated with the new outlet works system may be visible from areas of the Rosendin Park Area during the periods in which the park would be open to recreators.; however, the park would also be largely closed throughout construction activities (as described above under *Tree Removal [Year 1]*).

Section 3.16, *Noise*, on Final EIR page 3.16-6:

Recreational uses that border the Project Area include the Anderson Lake County Park to the southwest (which includes hiking trails and boating activities within the Seismic Retrofit component Project Area), the Live Oak Picnic Area also to the southwest, and the Rosendin Park Area to the southeast. These recreational areas would be temporarily closed during construction. Specifically, the Rosendin Park Area would be fully closed during the initial blasting phase of construction which is expected to take place over 3 to 4 months during Year 4, 5, or 6 of construction. Following the initial blasting phase, some trails in the park would be reopened with the exceptions of Lakeview, Gray Pine, Cochrane and Rosendin Trails, which would all remain closed for the duration of blasting. There would be no planned closures of Rosendin Park Area before Year 4 or after Year 6 of Project construction. Rancho Laguna Seca Trail and the Cochrane Trail would remain partially closed and would be dead-end trails with a turnaround at the construction site following the blasting phase of Project construction.

Section 3.16, *Noise*, on Final EIR page 3.16-32:

Recreational users at Anderson Lake County Park, the Rosendin Park Area, and the Live Oak Picnic Area would not be impacted during the times that these areas would be closed to users; however, recreators may be affected when the Rosendin Park Area is open outside of the initial blasting phase during Years 4, 5, or 6 of construction as those areas would be closed to users during construction.

Section 3.18, *Recreation*, on Final EIR page 3.18-35:

The Project would require the additional temporary closure of the Live Oak Picnic Area throughout the duration of Project construction and Rosendin Park Area, including all trails (i.e., Rancho Laguna Seca, Lakeview Lake View, and Grey Pine Trails) during the initial blasting phase of construction. The partial closures of Rancho Laguna Seca and Cochrane trails would extend throughout the entire construction period.

Section 3.18, *Recreation*, on Final EIR page 3.18-54:

Construction for the Seismic Retrofit components would result in temporary closures of additional facilities, including the Live Oak Group Picnic Area, the Rosendin Park Area (to be fully closed during the initial blasting phase of construction with some trails being opened before and after the initial blasting phase), the Grey Pine Trail, and portions of the Rancho Laguna Seca Trail (which would remain partially closed throughout the duration of blasting) and Lakeview Lake View Trail.

With the indicated revisions to the table, figure, and text discussed above within this response related to anticipated timeframes and locations of Rosendin Park Area closures during Project construction, the impacts to recreational facilities from park closures (specifically access to parks) would be lessened, and the significance determination of less than significant for the specific impacts due to Rosendin Park Area closures would not change. This is due to other parks/recreational areas/trails being available to the community.

Restriction of Recreational Access During Construction

Recreational access during Project construction is discussed in Section 3.18, *Recreation*, of the Final EIR. As discussed on page 3.18-1 of the Final EIR, the recreational analysis assumed that boating and angling recreationalists would travel up to 25 miles from the Project area within the County to reach an alternate facility, and other users (picnickers/hikers who generally originate within walking distance of Anderson Reservoir) would travel up to 5 miles from the Project area to reach an alternative recreational facility or opportunity for picnicking and potentially further to regional parks in the County for hiking, nature viewing, and other activities in response to the proposed closure of recreational facilities, including the Rosendin Park Area, during Project construction.

As stated on page 3.18-53 of the Final EIR, the potential temporary or permanent loss of recreational opportunities at any particular location itself is not a physical environmental impact

under CEQA. Rather, consistent with the CEQA Guidelines, the EIR analyzes whether such losses would cause increased use of alternative recreation facilities that may cause their deterioration, or whether the Project requires expansion or construction of recreation facilities that in turn may have a physical environmental impact. The loss of recreational opportunities during Project construction would be temporary and would be reversed through Project restoration/reopening of recreational facilities. The EIR determined that recreational impacts associated with increased use and potential degradation of alternate facilities would be less than significant due to the abundance of nearby recreational resources in Santa Clara County and the existing closures of recreational resources in the Project area due to FOCPP construction.

Commenters suggested limiting closures of the Rosendin Park Area only on days when blasting would occur. These suggestions have been taken into consideration, and Valley Water has consequently decided to limit closures of the Rosendin Park Area to the months and years in which blasting would occur. As discussed under *Timeframe and Locations of Closure* above, Valley Water decided to amend the length and duration of the closure of the Rosendin Park Area, by limiting closure during blasting in Years 4, 5, and/or 6 of construction only and partially opening some trails after initial blasting.

These changes would result in a decrease of recreational use of nearby facilities as recreators would be able to use many parts of Anderson Lake County Park and the Rosendin Park Area during Project construction that were previously assumed to be closed throughout all of Project construction. No changes to the Draft EIR significance conclusions would be made and impacts related to the use of alternative facilities due to temporary closure of Anderson Lake County Park and the Rosendin Park area would be lessened and remain less than significant. Impacts would remain less than significant due to the decreased duration of the closures discussed in this response and the large number of alternate angling and recreational facilities in the area, which would be able to accommodate the distribution of recreational users associated with the proposed park closures.

Emergency Evacuation and Emergency Response Access through Rosendin Park During Construction

Two plans address emergency evacuation and response routes in the Project area, including within the Rosendin Park Area: the Santa Clara County Community Wildfire Protection Plan (CWPP; specifically Annex 18 – County of Santa Clara Parks and Recreation Department [Santa Clara County 2016]) and the County of Santa Clara Emergency Operations Plan (specifically the Wildfire Annex [Santa Clara County Office of Emergency Management 2019]). The County of Santa Clara Emergency Operations Plan does not identify emergency evacuation or emergency response routes. The following information has been added to Section 3.22.2.2 on page 3.22-17 under *Santa Clara County Community Wildfire Protection Plan* to clarify the status of the CWPP and potential evacuation routes through the Rosendin Park Area:

As described in the CWPP, there are potential emergency evacuation routes that utilize trails within Anderson Lake County Park and the Rosendin Park Area. However, according to the CWPP website FAQ, the CWPP and various annexes are considered final drafts that have not been officially approved or adopted. Specifically, the FAQ states: “The most recent [CWPP] final draft was completed in August 2016 and couldn’t be approved before the Loma Fire started in September 2016. With the Loma Fire burning 4,474 acres before the CWPP could be approved, many priority fire prevention projects

identified in various CWPP Annexes became no longer applicable. Representatives from Santa Clara County Fire Department (SCCFD) and CALFIRE then agreed to postpone the approval and adoption process until the affected portions of the CWPP could be updated” (County 2023). Thus, the existing CWPP at the time of Final EIR preparation, including its Annex 18, is not an adopted emergency evacuation plan. Additionally, the County has clarified that any routes identified through the Rosendin Park Area, including the Rancho Laguna Seca Trail, are intended solely for the evacuation of park visitors and are not designated as formal public evacuation routes, nor were they designed, built or maintained for this purpose (E. Ross, Pers. Comms., December 19, 2024). CALFIRE (South Santa Clara County Fire District) has also stated that trails through Rosendin Park are not evacuation routes (C. Alcantar, Pers. Comms., December 18, 2024).

Furthermore, there is a new draft of CWPP Annex 18, *County of Santa Clara Department of Parks and Recreation*, that does not identify any evacuation routes, including in the Anderson Lake vicinity or in any other county parks facilities (County 2024). The updated Annex 18 is planned to be considered for adoption in 2025 as part of the updated countywide CWPP (R. Eisner, Pers. Comms., December 23, 2024). Based on the above information, trails within the Rosendin Park Area were not evacuation routes at the time of EIR preparation and are not included as future evacuation routes in the planned 2025 updated CWPP.

As discussed above under *Timeframe and Location of Closures* within this response, the closure of the Rosendin Park Area would be much shorter than originally anticipated and analyzed in the Draft EIR. As such, most of the trails included as part of the evacuation route through the Rosendin Park Area, including Rancho Laguna Seca Trail and Grey Pine Trail, would only be closed for limited periods during construction, as shown in revised Figure 3.18-7b above.

Park closure and construction activities associated with the Project would involve the installation of construction fencing around the park perimeter for public safety. While the trails through Rosendin Park do not constitute officially designated existing or future evacuation routes, during closure of the park in Years 4, 5, and/or 6, there would be staff hired by the construction contractor onsite 24/7 to open all gates within the park in the event of an emergency. As such, in the event of an emergency, access to trails within the Rosendin Park Area would remain largely unchanged from existing conditions as a result of Project construction and the related closure of the Rosendin Park Area.

Project impacts related to emergency evacuation and emergency response access through Anderson Lake County Park and the Rosendin Park Area would be mitigated to a less than significant level through preparation and implementation of a Response and Evacuation Strategy (RES), as required by Mitigation Measure WF-1, as revised (see *Master Response 7 - Impacts of FOCF and ADSRP on Wildfire Risks* below). Mitigation Measure WF-1 requires Valley Water to develop a RES and coordinate with local and state emergency response agencies to maintain adequate emergency response and evacuation routes throughout construction of the Project in locations where Project construction substantially interferes with emergency access and evacuation. . Implementation of Mitigation Measure WF-1 would mitigate Project impacts related to evacuation routes and emergency access through the Rosendin Park Area, including routes from the Holiday Lake Estates and Jackson Oaks communities, to a less-than-significant level.

7.2.5.1 *Summary of Comments*

Several comments were received on the Draft EIR related to the presence of feral pigs in the following contexts:

- **Environmental baseline for assessing feral pig impacts.** Commenters recommended that the Draft EIR consider 2013 as the environmental baseline for assessing Project impacts related to feral pigs.
- **ADSRP direct impacts from feral pigs.** Commenters asserted that ADSRP direct impacts from feral pigs are significant.
- **Condition of Anderson Reservoir resulting in feral pig impacts.** Commenters stated that the 2020 drawdown of Anderson Reservoir as part of the FOCF has resulted in feral pigs gaining access to private lakefront properties and neighborhoods in the vicinity of the reservoir, including the Holiday Lake Estates neighborhood. One comment provided maps, a video, photographs collected by community members, lake storage data, and local community member social media posts. The comment also discussed records of complaints since the 2020 drawdown of Anderson Reservoir from residents of the Holiday Lake Estates community, and stated that an increase in feral pig access and presence in the Holiday Lake Estates neighborhood has resulted since the drawdown. Comments expressed concern that feral pigs are damaging yards and properties and creating safety and water quality concerns due to attacks and excrement left behind by the pigs and suggested that Valley Water work with the proximate neighborhoods to address feral pigs through methods such as trapping and removal, and exclusion fencing.
- **Feral pig impacts considered as cumulative impacts.** Commenters recommended that the 2020 drawdown of Anderson Reservoir as part of the FOCF be considered as part of the cumulative analysis as it relates to feral pig impacts, and that cumulative feral pig impacts are significant.

7.2.5.2 *Master Response to Comment*

Environmental Baseline for Assessing Feral Pig Impacts

As described in Master Response 6 and on page 3.5-61 of Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, of the Final EIR, the analysis employs three baselines based on the Project component and the resource being considered, reflecting the complexities of the Project and Project circumstances. For terrestrial biological impacts (including feral pigs) related to Seismic Retrofit and Conservation Measure Components construction, as well as construction monitoring, the baseline utilized is existing conditions at the time of Draft EIR preparation modified by FOCF implementation (Existing Conditions Baseline). The Existing Conditions Baseline reflects the conditions with Anderson Reservoir at deadpool and feral pigs present in the areas surrounding the reservoir and the region, as this allows for a more accurate assessment of construction phase impacts, aligning with the CEQA Guidelines goal of selecting a baseline that presents the most accurate picture of a project's impacts. (CEQA Guidelines Section 15125(a).) Existing conditions at the time of the NOP (August 2013) is not used because

many environmental conditions have changed since 2013 and will be further modified by the FOCF, before ADSRP construction commences.

For post-construction impacts to terrestrial biological resources (including feral pigs), both the Pre-FERC Order Baseline and Future Baseline are utilized to study operational impacts of the Project. The Pre-FERC Order Baseline represents conditions prior to the reservoir drawdown to deadpool and the FOCF upgrades, with the reservoir filled and feral pigs known to be present in the vicinity of the reservoir and in the region, in general. The Future Baseline represents projected conditions if business-as-usual operations were resumed after completion of the Project, without implementing the FAHCE or flow regime improvements, but after all seismic safety improvements have been implemented. The Future Baseline includes the reservoir at maximum storage capacity, with feral pigs known to be present in the vicinity of the reservoir and in the region. These baselines are applied to post-construction operational impacts to conform to CEQA Guidelines Section 15125(a) guidance that, where existing conditions such as flows and reservoir conditions fluctuate over time, historical conditions may be used to provide the most accurate picture of a project's impacts. These baselines are used for the analysis of operational impacts to biological resources, which are materially affected by changes in flow and reservoir conditions.

Based on the above analysis, it would not be appropriate under CEQA to change the baseline for assessment of impacts related to the presence of feral pigs to 2013, for either construction or operational impacts, because this baseline would not provide an accurate picture of the Project's construction or operational impacts. Therefore, no changes to the environmental baseline utilized in the analysis of feral pigs in the Draft EIR are required.

ADSRP Direct Impacts from Feral Pigs are Not Significant

As discussed on Final EIR pages 3.5-84, 3.5-85, 3.5-205, Seismic Retrofit Construction, Construction Phase Drawdown, Conservation Measures construction, and Project operation would not result in a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under existing conditions. The increase in feral pigs after the drawdown of Anderson Reservoir coincided with regional/statewide increases in feral pig populations, and as discussed below feral pigs in neighborhoods west of Anderson Reservoir could have arrived there from locations to the south and/or the north as a result of the species' prolific productivity and dispersal capabilities. Therefore, the presence of feral pigs is part of the Existing Conditions Baseline, and no mitigation is required for existing conditions.

Regarding indirect impacts, as noted on page 3.5-84 of the Final EIR, feral pigs can have ecological impacts to sensitive habitats and species by rooting through habitats and consuming special status plants and animals. Feral pigs can also spread bacteria, viruses, and parasites to other wildlife and people and degrade water quality in ponds, streams, and lakes. As discussed below, feral pigs have long been present in the areas surrounding Anderson Reservoir, and there is the existing potential for these issues caused by feral pigs to occur. Since the Project would not worsen the existing presence of feral pigs, as addressed on Final EIR pages 3.5-84, 3.5-85, 3.5-205, the Project would not indirectly and adversely affect habitat that is considered sensitive or that supports species of special concern or other biological resources protected under CEQA (e.g., wetlands) due to the presence of feral pigs. Since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly and adversely affect water

quality of the proximate sensitive riparian and water areas due to changes in feral pig populations in the Project Area. Likewise, the Project would not indirectly affect hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods, including the spread of disease or safety concerns related to aggressive pigs. Therefore, the EIR adequately addresses potential impacts related to feral pigs, including indirect effects to sensitive habitat, special-status species, water quality, and hazards, and changes to the Draft EIR are not required.

ADSRP Cumulative Impacts from Feral Pigs are not Significant

Final EIR Section 3.0.6, *Approach to Cumulative Impacts*, outlines the approach to the cumulative impact analysis and provides a list of related projects included as part of the cumulative impact analysis. As stated on page 3-16 of the Final EIR, “For the Draft EIR cumulative impact analysis, specifically to account for FOCIP impacts, the environmental baseline is defined as existing conditions prior to FOCIP implementation (i.e., a Pre-FERC Order baseline).” FOCIP, including the 2020 drawdown of Anderson Reservoir, is one of the related projects considered in the cumulative analysis. The documented pervasive nature of feral pigs in the region is described below under *Causes of Feral Pig Impacts in Project Vicinity*. While the drawdown of Anderson Reservoir as a result of the FOCIP has made it easier for pigs to cross from one side of the reservoir to the other, and further dewatering of the reservoir during Project construction could contribute to easier crossing for individual pigs to move in and out of adjacent neighborhoods (as noted on page 3.5-84 of the Final EIR), there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. These changes in feral pig population and distribution are occurring regardless of the drawdown of the Anderson Reservoir, and there is no substantial evidence that the drawdown of Anderson Reservoir during FOCIP implementation has resulted in a substantial increase in numbers of feral pigs, or problems caused by feral pigs, relative to the species’ ability to disperse from areas to the north or south of Anderson Reservoir. Similarly, as discussed on Final EIR pages 3.5-84, 3.5-85, 3.5-205, Seismic Retrofit Construction, Construction Phase Drawdown, Conservation Measures Construction, and Project Operation would not result in a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under existing conditions. Therefore, cumulative impacts on feral pig presence in the Project Area and vicinity from the FOCIP and Project would not be significant, and the Project would not result in a cumulatively considerable contribution to feral pig presence in the Project Area and vicinity. Changes to the Draft EIR cumulative impacts analysis of terrestrial biological resources are thus not required.

While the frustrations and concerns of the commenters are acknowledged and will be shared with decision makers, for the reasons stated above, feral pig impacts are adequately discussed in the Draft EIR and no revisions to the Draft EIR are necessary.

Causes of Feral Pig Impacts in Project Vicinity

The Final EIR describes existing conditions related to feral pigs on pages 3.5-29 and 3.5-30, including a discussion of the known presence of invasive feral pigs in the region and Project Area, feral pig biology and distribution, feral pig management activities in the region, and the damage caused by feral pigs to neighborhoods near Anderson Reservoir and resulting requests from communities for feral pigs to be managed.

Additionally, as addressed on page 3.5-30 of the Final EIR, the feral pig population has been growing in the region for decades, and there is no evidence that the drawdown of Anderson Reservoir in 2020 substantially affected the distribution or number of feral pigs present in the Project Area. Feral pigs occur in a wide variety of habitats, including oak woodlands, mixed forests, and grassy savannas, and require a nearby water source. These habitat types are present in the Project Area vicinity, and Anderson Reservoir and the adjacent Coyote Creek provide water sources, even under deadpool conditions at the reservoir. Suitable habitat is present regardless of the drawdown of Anderson Reservoir. Although drawdown conditions in the reservoir may make it easier for some feral pigs to access and move across the reservoir bed, there is strong evidence that there are and have been alternate routes for feral pigs to access areas that surround Anderson Reservoir. Feral pig populations have been increasing steadily over the years, and the increase of feral pig presence is a regional and statewide issue. Supporting evidence is provided below that shows that the drawdown conditions of Anderson Reservoir would not add to the overall population growth of feral pigs within the region surrounding the Project Area.

Alternative Access Routes for Feral Pigs

The drawdown conditions of Anderson Reservoir may make it easier for some feral pigs to access (walk or swim shorter distances) and move across the reservoir bed. However, there is documentation from other agencies and online sources that feral pigs have the ability to access the neighborhoods west of Anderson Reservoir by means other than crossing the dewatered reservoir.

Despite suggestions in the feral pig Draft EIR public comments, the full reservoir was not an absolute barrier to pig movement. Even prior to drawdown of the reservoir, pigs could have swum across the reservoir. Pigs are good swimmers, and there are online videos of feral pigs swimming across wide waterbodies (Tour 2018; AL.com 2016).

The feral pig Draft EIR public comments assert that the increase in feral pig presence in adjacent neighborhoods to the reservoir were noted in 2021 after the reservoir had been drawn down and the lakebed had the opportunity to dry. In fact, feral pigs were present on the southwest side of Coyote Creek/Anderson Reservoir prior to the 2020 FOCIP-mandated drawdown (H.T. Harvey 2019). Some of the feral pig Draft EIR public comments focus on the lands east of Anderson Reservoir being the logical source of the pigs that have been entering the neighborhoods west of Anderson Reservoir. However, pigs may have also entered these neighborhoods from the south, from areas that are on the west side of Coyote Creek. Groups of “up to 20 at a time” were recorded during 2018 surveys conducted for Santa Clara County Parks’ development of a Natural Resources Management Plan for Coyote Canyon, located within 0.6 mile south of the Holiday Lakes Estates neighborhood (H. T. Harvey & Associates 2019). There are ample pathways by which pigs could have dispersed from Coyote Canyon to neighborhoods without having to cross either Coyote Creek or Anderson Reservoir.

Feral Pig Population Growth and Presence in Other Areas

As discussed on page 3.5-29 of the Final EIR, “Feral pigs reproduce prolifically; females may become sexually mature at less than 1 year of age and may produce up to four litters per year, including up to 18 piglets per litter (Rust 2022).” Pigs observed at Coyote Canyon in 2018 included boars, sows, and juveniles. Those 20 pigs could have produced hundreds of pigs

between 2018 and August 2021, which would explain the presence of over 25 pigs observed at the Holiday Lakes Estates neighborhood.

The Holiday Estates Maintenance Association comment letter, in particular, acknowledges that wild pigs were present in Rosendin Park prior to the FOCP-mandated drawdown, reporting “an occasional single bull or two bulls, but not sounders of many pigs.” Had even just one female been present at Rosendin Park, it too could have produced offspring that could result in numbers of up to 25 or more pigs in the Holiday Lake Estates neighborhood. Thus, the pigs currently being observed within the Holiday Lake Estates neighborhood could have arrived from the north or from the south, whether or not Anderson Reservoir was dewatered.

There is further evidence that feral pigs were present in the vicinity of Anderson Reservoir, but on the west side of the reservoir, independent of the FERC-mandated drawdown in 2020. In October 2020, there were news reports of feral pig damage to Coyote Creek Golf Course. This location is 4 miles northwest of Anderson Dam, and there is no evidence that the presence of feral pigs at the golf course was related to the drawdown of Anderson Reservoir.

Regional and Statewide Feral Pig Issue

The DEIR discusses the widespread nature of increases in feral pig populations and the problems these pigs have caused in numerous locations throughout Santa Clara County, independent of any activities at Anderson Reservoir. The state’s passage of SB 856 in 2022, relaxing restrictions on feral pig hunting, reflects the statewide growing pig population and the need for better management of pigs; the feral pig issue is not restricted to the vicinity of Anderson Reservoir. CDFW states that feral pigs currently exist in 56 of the state’s 58 counties. The fact that feral pigs are a statewide problem is evidenced by CDFW issuing feral pig depredation permits in 46 of California’s 58 counties from 2017 to 2021 (CDFW 2024a). This means that CDFW agreed with the individual Reporting Party wildlife incident reports in those counties, before issuing a depredation permit for feral pigs (CDFW 2024b).

Thus, while the increase in feral pigs was noted by commenters the year after the 2020 drawdown of Anderson Reservoir, this increase also coincided with regional/statewide increases in feral pig populations, and as discussed above feral pigs in neighborhoods west of Anderson Reservoir could have arrived there from locations to the south and/or the north as a result of the species’ prolific productivity and dispersal capabilities. While the drawdown of Anderson Reservoir could make it easier for pigs to move in (or out) of these neighborhoods, there is no evidence that the drawdown of Anderson Reservoir has resulted or would result in a substantial increase in numbers of feral pigs, or problems caused by feral pigs, relative to the species’ ability to disperse from areas to the north or south.

Options for Feral Pig Management

Valley Water understands the community’s concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. The feasibility of these options is discussed below.

Valley Water has considered the option of the installation of pig exclusion fencing; however, Valley Water determined that the installation of pig exclusion fencing could present impediments to movement by native wildlife; this would not only interfere with wildlife movement, but also make native wildlife more vulnerable to predation. Additionally, Valley Water determined that the installation of the pig exclusion fencing would not be an effective long-term solution as the feral pigs would likely travel into other surrounding areas where the fencing was not installed. Mass installation of pig exclusion fencing is also not a viable option as it would be even more detrimental to wildlife movement, and would result in other environmental impacts, such as adverse impacts to aesthetics resources, and interference with the ability to provide emergency access and services throughout the vicinity of the Project Area. Therefore, Valley Water has determined the installation of pig exclusion fencing to be an infeasible solution for the regional feral pig issue.

Valley Water has explored the option to provide funding for feral pig trapping and depredation efforts within Santa Clara County, consistent with SB 856 (2022), and implementing CDFW regulations expected to be adopted in 2024. While there are currently no established regional or local programs to which Valley Water can contribute funding, Valley Water has taken steps to support feral pig management through an agreement with the United States Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services (USDA APHIS WS).

Under this agreement (Valley Water and USDA APHIS WS 2024), Valley Water will fund feral pig management efforts on selected Valley Water-owned lands, including Anderson Reservoir, for a five-year period. Specific pig management activities will be coordinated between Valley Water biological staff and USDA APHIS WS field staff based on management needs. Localized pig control efforts, however, have not proven effective in reducing the overall feral pig population. This reinforces the need for a regional approach to improve outcomes. USDA APHIS WS, which is also contracted by other entities in the region, both public and private, is uniquely positioned to implement such efforts at a regional scale. Valley Water's agreement with USDA APHIS WS not only supports localized management on Valley Water lands but also contributes to broader regional feral pig management efforts. This agreement was executed by Valley Water and USDA APHIS WS on December 6, 2024, and implementation of the agreement is expected to begin late January.

Valley Water remains committed to collaborating with other agencies and exploring region-wide solutions to address the feral pig issue more effectively. As additional regional programs are developed, Valley Water will continue to evaluate opportunities to contribute and support these efforts.

7.2.6.1 Summary of Comments

Several comments were received on the Draft EIR related to the adequacy of EIR baselines, in the following contexts:

- **Use of multiple baselines.** Commenters raised concerns about the environmental baselines utilized in the Draft EIR, specifically that the Draft EIR's use of multiple and different baselines, depending on Project phase, creates confusion. Commenters asserted that baselines may have been selected to minimize or obscure environmental

impacts. Commenters also criticized the inconsistency in defining the existing conditions baseline in different resource sections of the Draft EIR and contended that this makes it challenging for the public and decision-makers to comprehend the environmental impacts of the Project.

- **Suggested use of a single baseline.** Some commenters suggested that a single environmental baseline be used, while other commenters recommended use of an August 2013 baseline date, aligning with the EIR NOP publication, for specific impact assessments such as cumulative impacts and feral pig assessments.

7.2.6.2 Master Response to Comment

Section 3.0.2, *Environmental Baselines*, of the Final EIR details the approach to environmental baselines for the Project. This master response focuses on baselines used in the EIR in general. For responses to individual, resource-specific baseline comments, refer to Section 7.3, *Comment Responses*.

Background

When assessing the significance of impacts, EIRs typically compare the potential impacts of a project with pre-project environmental conditions. This “baseline” often consists of the physical conditions that exist at the time the NOP is published. However, the approach to establishing a baseline is not rigid, and lead agencies have discretion in determining the appropriate baseline, including through use of historical or future baselines (or both), provided there is adequate justification for doing so and the decision is based on substantial evidence in the record (CEQA Guidelines Section 15125(a)(1)). Under CEQA, the goal is to provide the most accurate picture of a project's impacts. For example, in *Neighbors for Smart Rail v. Exposition Metro Line Constr. Auth.* (2013), 57 Cal.4th 439, 448, the Court noted “[t]hat existing conditions is the normal baseline under CEQA, but that factual circumstances can justify an agency departing from that norm when necessary to prevent misinforming or misleading the public and decisionmakers.” Furthermore, although the baseline may sometimes be the same for all resource topics, there are circumstances when this is not appropriate and would provide inaccurate results.

EIR Baseline Approach

Valley Water recognizes the importance of identifying clear and appropriate baselines for assessing environmental impacts under CEQA and acknowledges the critical role of baselines in evaluating project impacts, ensuring transparency, and facilitating informed decision-making. The EIR employs various baselines based on the Project components and nature of the resources being affected, reflecting the complexities of the Project and its impacts. Each baseline choice was made with due consideration for the specific phase and type of impact to best represent the environmental impacts under CEQA. This tailored approach to baseline selection ensures a comprehensive evaluation, addressing environmental effects both short-term and long-term, in accordance with the CEQA Guidelines and providing a nuanced understanding of the Project's impact on the environment. A one-size-fits-all baseline would not adequately reflect the complexity of the multi-construction-year Project and the evolving dynamic nature of environmental conditions. Baselines were not selected in the EIR in an attempt to obscure or minimize environmental impacts.

In general, three⁴ environmental baselines are used in the EIR (see Final EIR Section 3.0.2., *Environmental Baselines*, for a detailed explanation):

- **Existing conditions at the time of EIR preparation modified by FOCIP implementation (referred to as the “Existing Conditions Baseline”):** this baseline is typically applied for assessment of construction-phase impacts, including direct and indirect construction impacts as well as construction-phase reservoir operations and flow releases, and to a lesser extent, operational impacts. The Existing Conditions Baseline is based on publicly accessible data and/or field observations representing existing conditions when the Draft EIR was prepared. In addition, this baseline includes post-FOCIP conditions where FOCIP-related upgrades to the existing Anderson Dam and reservoir facilities have changed or will change existing conditions (e.g., construction of the ADTP and downstream flood management measures or the installation of chillers associated with the Project). The incorporation of post-FOCIP conditions in this baseline allows for a more accurate assessment of the Project’s construction phase impacts, as the impact is compared against the anticipated physical conditions at the time of Project construction, aligning with the CEQA Guidelines’ goal of selecting a baseline that presents the most accurate picture of a project’s impacts. The existing conditions at the time of the EIR Notice of Preparation (August 2013) are not used as a baseline because environmental conditions have changed since 2013, and currently are and will be further modified by the FOCIP before Project construction commences.⁵ See Section 3.0.2.1, *Existing Conditions Baseline*, for further information. The Existing Conditions Baseline used in the EIR most accurately captures impacts from ADSRP construction.
- **Pre-FERC Order Baseline:** this baseline is applied to post-construction operational impacts, particularly for the resource topics materially affected by changes in downstream flow conditions in Coyote Creek (e.g., biological and water resources-related topics), prior to modifications to these resource topics caused by the FOCIP. The Pre-FERC Order Baseline conforms to CEQA’s requirement of using historical conditions when necessary to provide the most accurate picture of a project’s impacts and represents operational conditions pre-dating the FERC Order seismic restrictions and FOCIP facility upgrades (i.e., prior to the reservoir drawdown to deadpool and FOCIP). Based on a 1990-2010 period of record and 2015 estimates, this baseline models typical conditions, incorporating DSOD seismic restrictions for Anderson and Coyote Creek dams. It serves as a benchmark for evaluating post-construction operational impacts by isolating the effects of seismic retrofit components and non-flow Conservation Measures. See Section 3.0.2.2, *Post-Construction Operational Baselines*, for further information.
- **Future Baseline:** this baseline is applied to post-construction operational impacts, particularly for the resource topics materially affected by changes in downstream flow conditions in Coyote Creek (e.g., biological and water resources-related topics), after modifications to these resource topics by the FOCIP and considering future water supply

⁴ Note: To provide a more accurate prediction of Project impacts, the EIR Fisheries Resources analysis of non-flow related construction-phase impacts also uses an existing conditions baseline that both considers the conditions at time of EIR preparation modified and unmodified by FOCIP.

⁵ Please note that the FOCIP is considered as a cumulative project in the EIR cumulative impact analyses. Specifically, to account for FOCIP impacts, the baseline for cumulative impact analyses is existing conditions prior to FOCIP implementation (i.e., a Pre-FERC Order Baseline). See Final EIR Section 3.0.6, *Approach to Cumulative Impacts*.

and demand projections. The Future Baseline represents projected conditions if business-as-usual operations were resumed after completion of the Project, without implementing FAHCE or flow regime improvements, but after all seismic safety improvements have been implemented, permitting the reservoir to return to maximum storage capacity. The Future Baseline serves as a benchmark for evaluating post-construction operational impacts by isolating the effects of post-construction flow measures, in particular the FAHCE rule curves. See Final EIR Section 3.0.2.2, *Post-Construction Operational Baselines*, for further information. For some Project impacts, primarily related to fisheries or operational impact, multiple baselines were employed. The use of multiple baselines, while making the impact analysis more complex, is intended to accurately reflect the nature of environmental impacts and present a conservative evaluation of impacts over time. For example, where fisheries resources would be affected by construction-phase dewatering and operation, both the Existing Conditions Baseline and Pre-FERC Order Baseline are used. The Existing Conditions Baseline is used to reflect effects on the existing reservoir drawdown conditions as well as use of imported water releases, chillers, and other FOCF avoidance and minimization measures; whereas the Pre-FERC Order Baseline is used to evaluate impacts during normal flow conditions (refer to Final EIR Section 3.4, *Fisheries Resources*).

Valley Water recognizes that use of multiple environmental baselines adds complexity to the Draft EIR, making it more challenging for the general reader to easily understand. However, as mentioned above, use of multiple baselines was necessary to provide the most accurate picture possible of the Project's short-term and long-term impacts. To assist public understanding, is provided below to summarize the environmental baseline applied to the impact analysis by resource topic and Project component.

Table 7-2. Summary of Environmental Baseline by Resource Topic and Project Component

Resource Topic	Project Component	Existing Conditions	Pre-FERC Order	Future Baseline
Aesthetics	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
	Post-Construction Anderson Dam Facilities Operations and Maintenance	X	X	
Agriculture and Forestry Resources	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
	Post-Construction Anderson Dam Facilities Operations and Maintenance	X		
Air Quality	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
	Seismic Retrofit Construction	X	X	

Resource Topic	Project Component	Existing Conditions	Pre-FERC Order	Future Baseline
Biological Resources— Fisheries Resources	Conservation Measures Construction	X	X	
	Construction Monitoring	X		
	Post-Construction Instream Flows Operations		X	X
	Post-Construction Anderson Dam and Conservation Measures Operations and Maintenance		X	X
	Project and FAHCE Adaptive Management		X	X
Biological Resources— Wildlife and Terrestrial Resources	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
	Construction Monitoring	X		
	Post-Construction Operations, Maintenance, and Monitoring, including Post-Construction ADSRP and FAHCE Adaptive Management (evaluated together)		X	X
Cultural Resources	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
	Post-Construction Anderson Dam Facilities Operations and Maintenance		X	
Energy	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
	Post-Construction Anderson Dam Facilities Operations and Maintenance	X		
	Post-Construction Conservation Measures Operations and Maintenance	X		
Geology and Soils	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
	Post-Construction Anderson Dam Facilities Operations and Maintenance		X	
Greenhouse Gas Emissions	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
	Post-Construction Anderson Dam Facilities Operations and Maintenance	X		
	Post-Construction Conservation Measures Operations and Maintenance	X		
	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		

Resource Topic	Project Component	Existing Conditions	Pre-FERC Order	Future Baseline
Hazards and Hazardous Materials	Post-Construction Anderson Dam Facilities Operations and Maintenance	X		
Hydrology	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
	Construction Monitoring	X		
	Post-Construction Anderson Dam Facilities Operations and Maintenance		X	
	Post-Construction Conservation Measures Operations and Maintenance		X	
Groundwater Resources	Seismic Retrofit Construction	X	X	
	Conservation Measures Construction	X		
	Post-Construction Anderson Dam Facilities Operations and Maintenance		X	
Water Supply	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
	Construction Monitoring	X		
	Post-Construction Anderson Dam Facilities Operations and Maintenance		X	X
	Post-Construction Conservation Measures Operations and Maintenance		X	
Water Quality	Seismic Retrofit Construction	X	X	
	Conservation Measures Construction	X		
	Construction Monitoring	X	X	
	Post-Construction Anderson Dam Facilities Operations and Maintenance		X	X
	Post-Construction Conservation Measures Operations and Maintenance		X	X
Land Use	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
	Post-Construction Anderson Dam Facilities Operations and Maintenance	X		
Noise and Vibration	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		

Resource Topic	Project Component	Existing Conditions	Pre-FERC Order	Future Baseline
	Post-Construction Anderson Dam Facilities Operations and Maintenance	X		
Public Services	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
	Post-Construction Anderson Dam Facilities Operations and Maintenance	X		
Recreation	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
	Post-Construction Anderson Dam Facilities Operations and Maintenance		X	X
Transportation	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
Tribal Cultural Resources	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
	Post-Construction Anderson Dam Facilities Operations and Maintenance		X	
Utilities and Service Systems	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
Wildfire	Seismic Retrofit Construction	X		
	Conservation Measures Construction	X		
	Post-Construction Anderson Dam Facilities Operations and Maintenance	X		

7.2.7.1 *Summary of Comments*

Several comments were received on the Draft EIR related to wildfire risks in the following contexts:

- **History of wildfires and existing wildfire risk.** Commenters expressed concern that the Draft EIR does not adequately discuss recent fires that have occurred in the Anderson Reservoir region, and commenters provide a discussion of recent wildfires and fire events that have occurred in the Anderson Reservoir vicinity since 2007. Commenters expressed concern that the EIR does not adequately assess future fire risk as it does not adequately consider past fires, and thus existing baseline wildfire risk.
- **Use of updated CALFIRE maps.** Commenters stated that CALFIRE is developing updated FHSZ Maps, and once adopted, several areas in the Anderson Reservoir region will be designated as Very High Fire Hazard Severity Zones. These areas are currently mapped as less severe FHSZs, and as such the commenters asserted that the Draft EIR fails to consider the increased fire hazard to be identified by CALFIRE.
- **Increased wildfire risk from Project construction.** Commenters expressed concern that the draining of Anderson Reservoir during Project construction to deadpool⁶ conditions would result in increased wildfire risk as there would no longer be a water body shielding residences from wildfires that may occur on the east side of Anderson Reservoir. Commenters also expressed concern that Anderson Reservoir at deadpool would create a “box canyon,” or a canyon which is enclosed on all sides by steep slopes, which could worsen the impact of wildfires that may occur in the area.
- **Adequacy of mitigation measures for wildfire risk.** Commenters stated that Mitigation Measure WF-1 (now titled Reduce Emergency Response and Evacuation Interference during Construction and develop a Response and Evacuation Strategy), does not mitigate potentially significant wildfire impacts to a less-than-significant level. Commenters stated that additional mitigation is needed to address wildfire risk and commenters suggest several new mitigation measures for inclusion in the EIR, including but not limited to suspending construction activities in certain conditions; fire hardening areas in the Anderson Reservoir area; providing water supplies in the event of a wildfire; installing new long-range acoustic devices, radio stations, electronic signs, and cellular towers to communicate wildfire warnings and evacuation orders; creating a fire council funded by Valley Water; and completing a vegetation management study funded by Valley Water.
- **Emergency access and impairment of evacuation routes.** Commenters expressed concern that in the event of severe wildfires, East Dunne Avenue would not provide adequate emergency access and evacuation capacity. Commenters also expressed concern that the closure of the Rosendin Park Area to the public during Project construction would prevent use of existing evacuation routes through the Rosendin Park Area.

⁶ “Deadpool” refers to conditions in which Anderson Reservoir has been drained to elevation 490 feet NAVD 88, whereby some water remains pooled at lower elevations of the lakebed and cannot flow out.

- **Adequacy of mitigation measures for evacuation routes.** Commenters stated that Mitigation Measure WF-1 (Reduce Emergency Response and Evacuation Interference during Construction and develop a Response and Evacuation Strategy), does not mitigate potentially significant wildfire impacts to a less-than-significant level. Commenters stated there is only one evacuation route available to residents in the Anderson Reservoir area (East Dunne Avenue), and that additional roads and evacuation routes are necessary to serve residents in the Project Area and to mitigate potentially significant impacts. Commenters suggested some mitigation measures for inclusion in the EIR, including, but not limited to, completing a road construction study funded by Valley Water and constructing a fire-hardened fire shelter to facilitate emergency evacuation.

7.2.7.2 Master Response to Comment

History of Wildfires and Existing Wildfire Risk

The Draft EIR includes a discussion of two major fires that have occurred in the Anderson Reservoir area, including the 2020 Santa Clara Unit Lightning Complex Fire and the 2007 Lick Fire, in Section 3.22.1, *Environmental Setting*, of Section 3.22, *Wildfire*. These wildfires were discussed in the Draft EIR, as they are among the largest, most recent, and most proximate fires in the Project Area vicinity. Pursuant to CEQA Guidelines 15125(a), “[a]n EIR must include a description of the physical environmental conditions in the vicinity of the project” and “[t]he description of the environmental setting shall be no longer than is necessary to provide an understanding of the significant effects of the proposed project and its alternatives.” The Draft EIR provides a discussion of two major fires and wildfire frequency in the Project Area vicinity that adequately represents the severity and history of wildfire in the Project Area for purposes of the wildfire impact analysis. However, information pertaining to recent fires in the Anderson Reservoir Area provided by commenters provides further details for the environmental setting for wildfire that are of interest to some reviewers. As such, the following information has been added to the Final EIR.

Section 3.22, *Wildfire*, page 3.22-2 of the Final EIR:

Fire History

Although wildfires occur on an annual basis throughout the County, they are often contained through early identification, maintaining emergency access routes, and an extensive County-fire suppression response. However, fires can quickly increase in size and cause significant damage if ignitions occur during unfavorable weather (i.e., dry and windy) and/or in areas with poor access. Several fires have occurred in the Project Area vicinity, including but not limited to:

- The 2023 Cochrane Fire, which burned 72 acres north of Morgan Hill adjacent to the Kirby Canyon Landfill and Coyote Ridge Open Space Preserve (CALFIRE 2023).
- The 2020 Santa Clara Unit Lightning Complex Fire, which was the third largest wildfire in California history, burning 396,624 acres and spanning Stanislaus, Santa Clara, Alameda, Contra Costa, and San Joaquin Counties (CALFIRE 2021).

The closest perimeter of the Santa Clara Unit Lightning Complex Fire is located approximately 6 miles northeast of the Project Area.

- The 2020 Park Fire, which burned 343 acres southeast of Anderson Reservoir over three days. The extent of this fire included residential areas along East Dunne Avenue and Finley Ridge Road (CALFIRE 2024).
- The 2011 McDonald Fire, which burned approximately 60 acres near McDonald Lane in Morgan Hill west of Anderson Reservoir (CALFIRE 2011).
- The 2007 Lick Fire, The perimeter of the 2007 Lick Fire, which burned 47,183 acres, The perimeter of the 2007 Lick Fire is also located approximately 6 miles northeast of the Project Area (CALFIRE 2007).

Other fire incidents have occurred recently in the Anderson Reservoir area that required emergency response from CALFIRE, including but not limited to a vehicle fire on Shady Lane Drive east of Anderson Reservoir in 2023.

The EIR includes a discussion of FHSZs as defined and established by CALFIRE and a discussion of existing wildfire risk in the Project Area in Section 3.22.1, *Environmental Setting*, of Section 3.22, *Wildfire*. This section, starting on page 3.22-1 of the Final EIR, explains FHSZs and discusses the classifications of FHSZs present in the Project Area to characterize existing wildfire risk. This section also discusses Fire Threat Zones, as determined by the 2016 Santa Clara County Community Wildfire Protection Plan, including how various classifications of Fire Threat Zones are determined and how many acres of each wildfire threat classification are within the Project Area. These sources of information (CALFIRE FHSZ mapping and the Santa Clara County Community Wildfire Protection Plan) represent the best information available at the time of Draft EIR preparation, and use of this information in the EIR adequately characterizes wildfire risk in the Project Area.

Use of Updated CALFIRE Maps

At the time of Draft EIR preparation and during the Draft EIR public comment period, the 2022 FHSZ maps prepared by CALFIRE were undergoing regulatory review and not yet adopted. Since closure of the Draft EIR public comment period on November 8, 2023, CALFIRE adopted the 2022 FHSZ maps, which became effective April 1, 2024. The 2022 FHSZ maps generally increase the FHSZ designation in the predominantly open space areas east of Anderson Reservoir from high to very high, largely reduce the area near Holiday Lake Estates (where mapped) and within Rosendin Park from high to moderate, with the exception of additional and small mapped FHSZ's on the western reservoir shoreline within Holiday Lake Estates that are mapped as very high, high, and moderate (CALFIRE 2022). Because the 2022 FHSZ maps were not adopted by CALFIRE at the time of Draft EIR preparation, the previously adopted 2007 FHSZ maps were used in the Draft EIR wildfire analysis.

As discussed on pages 3.22-24 through 3.22-27 in Section 3.22, *Wildfire*, of the Final EIR, construction of the Project could result in accidental ignition of a wildfire. However, this impact would be less than significant with implementation of BMP HM-12 (Incorporate Fire Prevention Measures), BMP TR-1 (Incorporate Public Safety Measures) Mitigation Measure PS-1 (Prepare and Implement Traffic Management Plan), and Mitigation Measure WF-1 (Reduce Emergency Response and Evacuation Interference during Construction and develop a Response and

Evacuation Strategy, as revised below). As concluded in Section 3.22, *Wildfire*, with these BMPs and mitigation measures implemented, the Project would not result in significant and unavoidable impacts associated with wildfire and would not expose Project vicinity occupants to the uncontrolled spread of a wildfire. Regardless of the FHSZ in which Project components are located, the Project would not significantly increase the risk of wildfire beyond existing conditions, and no new mitigation would be required if Project components are located in more severe FHSZs. CALFIRE's re-designation of certain areas to higher or lower FHSZs would have occurred regardless of planning or implementation of the Project. Therefore, the Draft EIR adequately assesses existing fire risk by using the 2007 FHSZ maps, and the EIR impact analysis need not address the proposed re-designation of certain areas to higher and lower FHSZs.

Increased Wildfire Exposure Risk from Project Construction

As discussed in Section 3.22, *Wildfire*, of the Final EIR, the Project would not result in significant and unavoidable impacts to wildfire. As discussed on page 3.22-24 of the Final EIR, CALFIRE, in coordination with Valley Water, did not express concerns over the lack of water in Anderson Reservoir during seismic retrofit construction, which is typically used for firefighting via helicopter. Construction-related vehicular traffic would primarily occur on existing roadways and within cleared areas, and parking or refueling would only occur in designated, vegetation-free areas, reducing the likelihood of ignition. Furthermore, the access roads and stockpile areas within the reservoir, generally 30 to 60 feet wide, comprised of dirt, and devoid of vegetation, span most of the reservoir from north to south and would act as fire or fuel breaks, helping to limit the spread of wildfire between the east and west sides of the reservoir and provide access to fire agencies in responding to a potential wildfire. Additionally, as discussed on pages 3.22-24 through 3.22-27, implementation of BMP HM-12 (Incorporate Fire Prevention Measures) would also minimize the potential for construction activities to ignite a wildfire, including but not limited to measures requiring spark arrestors on all equipment with internal combustion areas, removal or proper containment of combustible materials in construction areas, and the provision that fire extinguishers and other fire equipment be available within construction areas. Construction would also be required to comply with applicable requirements of the California Fire Code, which would further reduce wildfire risks.

As stated on pages 3.22-19 of the Final EIR, the environmental baseline utilized for the wildfire analysis is existing conditions at the time of Draft EIR preparation as modified by FOCP implementation. As shown on aerial imagery, at the time of Draft EIR preparation, Anderson Reservoir was experiencing relatively low water levels. The portion of the reservoir adjacent to the Holiday Lake Estates and Jackson Oaks communities was nearly empty except for a small stream fed by Coyote Creek (Google Earth 2023). Therefore, the existing baseline conditions utilized for wildfire analysis consist of portions of Anderson Reservoir having low water levels and being mostly dry.

Additionally, the existing water level of Anderson Reservoir fluctuates year to year and throughout each year, depending on conditions such as rainfall, drought, and dam operations. Low water levels and a mostly dry lakebed during FOCP implementation are conditions that could occur regardless of Project implementation. Additionally, as stated on page 3.22-24 of the Final EIR, the Project would not create areas that would provide additional fuel load for wildfires beyond existing conditions.

Commenters expressed concern that the Project would create conditions that could potentially contribute to a “box canyon” effect. A “box canyon” is characterized as a steep-sided, dead-end canyon, though the steepness of canyon slopes is not specifically defined. Fires starting near the base of a canyon can create upslope drafts, which in turn can create rapid fire spread up a canyon (National Wildfire Coordinating Group 2006). While Anderson Reservoir at deadpool conditions exposes dry lakebed and reservoir slopes resembling a “box canyon”, the reservoir slopes are generally flatter than a traditional canyon, the lakebed itself is mostly flat, and the lowest parts of the reservoir (base of the canyon) would typically remain wet, alleviating potential “box canyon” effects. Additionally, commenters expressed concern that the lack of water in Anderson Reservoir could increase wind speeds, which could facilitate the spread of wildfire. As discussed above, the existing water level of Anderson Reservoir fluctuates year to year and throughout each year, and low water levels and a mostly dry lakebed during FOCIP implementation are conditions that could occur regardless of Project implementation. Considering similar conditions occurred at the time of FOCIP implementation and could occur at any time regardless of Project implementation, the Project would not exacerbate potential wildfire risks associated with a “box canyon” effect or wind speed.

As such, the conditions of Anderson Reservoir that would result from Project construction would not substantially differ from existing conditions that occur at Anderson Reservoir, and the Project would not exacerbate wildfire risks compared to existing conditions. Construction-related impacts associated with wildfire exposure risk (Impact WF-1) would be less than significant.

Adequacy of Mitigation Measures for Wildfire Risk

Several of the mitigation measures suggested by commenters pertain to fire safety measures that would mitigate existing wildfire risks, such as risks associated with above ground utilities; a lack of communication equipment (e.g., long-range acoustic devices, cell towers, and electronic road signs) to warn residents of wildfires; limited evacuation routes; and a lack of ongoing vegetation management. The Project would not affect or install additional above ground utilities, interfere with or reduce existing communication equipment, limit evacuation routes, or provide additional fuel load for wildfires beyond existing conditions. Valley Water is not responsible for mitigating existing conditions that do not result from the Project. As demonstrated in the Draft EIR and as summarized above, the Project would not result in significant and unavoidable impacts related to wildfire. Impacts associated with exposing people or structures to a significant risk of loss, injury, or death involving wildland fires (Impact WF-4) would be less than significant with mitigation (Mitigation Measures PS-1 and WF-1). As such, additional mitigation measures are not required.

The EIR includes the following BMPs to reduce impacts, and mitigation measures that would reduce potential wildfire exposure risk impacts to a less-than-significant level:

- BMP HM-12 (Incorporate Fire Prevention Measures). This measure requires on-site fire suppression equipment and spark arrestors on all equipment with internal combustion engines, and prohibits smoking except in designated smoking areas.
- BMP TR-1 (Incorporate Public Safety Measures). As discussed on page 3.10-37, this BMP would require construction warning signs, safety fencing, and the establishment of

detours, which would minimize potential impacts associated with construction areas and closure of Cochrane Road.

- Mitigation Measure PS-1 (Prepare and Implement Traffic Management Plan). As discussed in Section 3.17, *Public Services* (pages 3.17-20 and 3.17-21), Mitigation Measure PS-1 requires Valley Water and its construction contractors to prepare and implement a traffic management plan to minimize potential safety hazards associated with lane restrictions or road closures. This mitigation measure requires Valley Water to inform the public, as well as local and state agencies (including but not limited to the California Highway Patrol, CALFIRE, the Morgan Hill Fire Department, and the South Santa Clara County Fire District) of lane and road closures, and requires construction to be coordinated with these agencies and others to make agencies and first responders aware of road closures.
- Mitigation Measure WF-1 (Reduce Emergency Response and Evacuation Interference during Construction and develop a Response and Evacuation Strategy [RES]) (Final EIR page 3.22-32). Mitigation Measure WF-1 has been revised as shown below to 1) avoid confusion in use of terminology, as FERC uses the term “emergency action plan” in other contexts, 2) provide clarification for mitigation measure applicability, largely as it pertains to the location of “designated and functional” evacuation routes, and 3) to remove requirements related to the previously identified temporary refuge area at the Woodchopper’s Flat Picnic Area, given the City of Morgan Hill has indicated that Woodchopper’s Flat is not a designated refuge area (see *Emergency Access and Impairment of Evacuation Routes* below for further discussion). As revised, Mitigation Measure WF-1 requires Valley Water to coordinate with local and state emergency response agencies and prepare a Response and Evacuation Strategy to maintain adequate emergency response and evacuation routes throughout construction of the Project in locations where Project construction substantially interferes with emergency access and evacuation.

***Mitigation Measure WF-1: Reduce Emergency Response and Evacuation Interference during Construction and Develop a Response and Evacuation Strategy (RES) n
Emergency Action Plan***

Before construction of Project components, Valley Water will prepare an RES EAP and coordinate with local and state emergency response agencies through regular meetings, written communications, and review of construction schedules so that adequate emergency response and evacuation routes are maintained through construction of the Project in locations where Project construction substantially interferes with emergency access and evacuation. Emergency response agencies will be notified in advance of all lane and road closures, reducing the potential for construction activities to significantly interfere with emergency response or designated and functional community evacuation routes. The RES will include a communication protocol outlining how Valley Water will provide construction updates to local agencies, such as traffic control plans and road closure schedules, to assist with emergency response planning and facilitate timely evacuation notifications to residents. The communication protocol will also establish procedures for how Valley Water and/or the construction contractor will quickly notify emergency responders should a wildfire or other emergency situation be detected.

Prior to commencement of the Project construction, Valley Water will coordinate with local and state emergency response agencies to allow emergency response vehicles to access all areas affected by construction activities. In locations where Project construction substantially interferes with use of designated and functional community evacuation routes, the RES The EAP will also include alternate routes to certain areas to provide evacuation routes that are passable to allow residents to evacuate an affected area. The draft RES, including the alternate evacuation routes and communication protocol, will be provided to representatives of Holiday Lakes Estates and Jackson Oaks for review before being finalized. Furthermore, prior to commencement of the Project, Valley Water will coordinate with local and state emergency response agencies and identify an alternative temporary refuge area to replace the Woodchoppers Flat Picnic Area or will provide emergency access to the Woodchoppers Flat Picnic Area. Emergency access may be provided through a system such as an electromagnetic lock that can be remotely unlocked via satellite during a wildfire or other emergency, or other method that allows for emergency use of Woodchoppers Flat Picnic Area as a temporary refuge area.

The Traffic Management Plan and RES required by Mitigation Measures PS-1 and WF-1 would be developed by Valley Water with its construction contractors. Some of the measures suggested by commenters may be considered for implementation in the Traffic Management Plan and RES, and the draft RES will be provided to representatives of Holiday Lakes Estates and Jackson Oaks for review before finalizing

Based on the above discussion, the Draft EIR impact significance conclusions and mitigation measures related to wildfire risk exposure remain adequate (Impacts WF-1 and WF-4), and no changes to the significance conclusions or mitigation measures are necessary in response to public comments received on the Draft EIR.

Emergency Access and Impairment of Evacuation Routes

The Project would not involve partial or full closure of East Dunne Avenue. Pursuant to CEQA Guidelines Section 15126, an EIR shall identify significant environmental effects of the project and shall identify mitigation measures to minimize the significant effects. The EIR need not identify mitigation measures to minimize existing environmental hazards, such as, in this case existing evacuation capacity. The concern regarding emergency capacity of East Dunne Avenue pertains to existing conditions; the lead agency (in this case, Valley Water) is required only to identify and mitigate significant effects caused by the Project, not existing environmental conditions.

Commenters expressed concern over the closure of the Rosendin Park Area, as a potential evacuation route, and the Woodchoppers Flat Picnic Area, as a temporary refuge area during wildfire. As stated throughout the Draft EIR, the Rosendin Park Area of Anderson Lake County Park would be closed at times during Project construction. Valley Water, in preparing the Draft EIR, conservatively assumed and analyzed that the entirety of the Rosendin Park Area would be closed throughout the entire construction period; however, Valley Water subsequently decided to amend the length and duration of the closure of the Rosendin Park Area by limiting closure during blasting that could occur in Year 4, 5, and/or 6 of construction only and partially opening some trails after initial blasting (see *Master Response 4 - Impacts of FOCF and ADSRP Related to*

Rosendin Park Area Closures for additional details). Therefore, the actual closure of the Rosendin Park Area would be limited and would be less than what was analyzed in the Draft EIR.

As discussed in *Master Response 4 - Impacts of FOCP and ADSRP related to Rosendin Park Area Closures*, two plans address emergency evacuation and response routes in the Project area, including within the Rosendin Park Area: the Santa Clara County Community Wildfire Protection Plan (CWPP; specifically Annex 18 – County of Santa Clara Parks and Recreation Department [Santa Clara County 2016]) and the County of Santa Clara Emergency Operations Plan (specifically the Wildfire Annex [Santa Clara County Office of Emergency Management 2019]). The County of Santa Clara Emergency Operations Plan does not identify emergency evacuation or emergency response routes. The following information has been added to Section 3.22.2.2 on page 3.22-17 under *Santa Clara County Community Wildfire Protection Plan* to clarify the status of the CWPP and potential evacuation routes through the Rosendin Park Area:

As described in the CWPP, there are potential emergency evacuation routes that utilize trails within Anderson Lake County Park and the Rosendin Park Area. However, according to the CWPP website FAQ, the CWPP and various annexes are considered final drafts that have not been officially approved or adopted. Specifically, the FAQ states: “The most recent [CWPP] final draft was completed in August 2016 and couldn’t be approved before the Loma Fire started in September 2016. With the Loma Fire burning 4,474 acres before the CWPP could be approved, many priority fire prevention projects identified in various CWPP Annexes became no longer applicable. Representatives from Santa Clara County Fire Department (SCCFD) and CALFIRE then agreed to postpone the approval and adoption process until the affected portions of the CWPP could be updated” (County 2023). Thus, the existing CWPP at the time of Final EIR preparation, including its Annex 18, is not an adopted emergency evacuation plan. Additionally, the County has clarified that any routes identified through the Rosendin Park Area, including the Rancho Laguna Seca Trail, are intended solely for the evacuation of park visitors and are not designated as formal public evacuation routes, nor were they designed, built or maintained for this purpose (E. Ross, Pers. Comms., December 19, 2024). CALFIRE (South Santa Clara County Fire District) has also stated that trails through Rosendin Park are not evacuation routes (C. Alcantar, Pers. Comms., December 18, 2024).

Furthermore, there is a new draft of CWPP Annex 18, County of Santa Clara Department of Parks and Recreation, that does not identify any evacuation routes, including in the Anderson Lake vicinity or in any other county parks facilities (County 2024). The updated Annex 18 is planned to be considered for adoption in 2025 as part of the updated countywide CWPP (R. Eisner, Pers. Comms., December 23, 2024). Based on the above information, trails within the Rosendin Park Area were not evacuation routes at the time of EIR preparation and are not included as future evacuation routes in the planned 2025 updated CWPP.

The closure of the Rosendin Park Area would involve the installation of construction fencing around the park perimeter for public safety. While the trails through Rosendin Park do not constitute officially designated existing or future evacuation routes, during closure of the park in Years 4, 5, and/or 6, there would be staff hired by the construction contractor onsite 24/7 to open all gates within the park in the event of an emergency. As such, access would remain

largely unchanged from existing conditions as a result of Project construction and the related closure of the Rosendin Park Area.

The Draft EIR included mitigation to address potential impacts related to emergency response and access as a result of closure of, or lack of access to, the temporary refuge area in Woodchoppers Flat Picnic Area. Woodchopper's Flat was identified as a temporary refuge area by the City of Morgan Hill's Community Emergency Response Team in 2016. However, per communications with the City of Morgan Hill on April 22, 2024, the Community Emergency Response Team map that identifies Woodchopper's Flat as a refuge area is outdated (Jennifer Ponce pers. comm.). Accordingly, Woodchopper's Flat is no longer considered a temporary refuge area and portions of Mitigation Measure WF-1 that required identification of an alternative temporary refuge area to replace the Woodchoppers Flat Picnic Area have been removed. Therefore, Project construction would not substantially prevent use of existing designated evacuation routes and temporary refuge areas in Anderson Lake County Park or prevent use of existing routes for the purpose of emergency response access.

Adequacy of Mitigation Measures for Evacuation Routes

As mentioned above, the Project would not involve partial or full closure of East Dunne Avenue. Additionally, as discussed on pages 3.10-36 and 3.10-37 of Section 3.10, *Hazards and Hazardous Materials*, evacuation routes in the Holiday Lake Estates and Jackson Oaks communities include Holiday Drive, Quail Lane/Copper Hill Drive, Jackson Oaks Drive, Thomas Grade, and Oak Leaf Drive, in addition to East Dunne Avenue. The Project would not impair use of these roadways as evacuation routes. Therefore, mitigation measures suggested by commenters related to impairment of evacuation routes are not necessary. As described in Section 3.10, *Hazards and Hazardous Materials*, and Section 3.22, *Wildfire*, the Project would affect other evacuation routes. The Project would include development of an RES and local and state agency coordination as required by Mitigation Measure WF-1, which would mitigate Project impacts related to evacuation routes, including routes from the Holiday Lake Estates and Jackson Oaks communities, to a less-than-significant level.

The BMPs and mitigation measures described above adequately reduce potentially significant impacts related to evacuation routes because Valley Water will coordinate with local and state emergency response agencies such that adequate evacuation routes are maintained through construction of the Project in locations where Project construction substantially interferes with emergency access and evacuation. As such, the Project would not substantially impair or interfere with implementation of an emergency evacuation plan and would not expose people to a significant risk of loss, injury, or death involving wildland fires relative to existing conditions (Impact WF-4). Impacts associated with impairment of evacuation routes or plans would be less than significant with mitigation.

Therefore, the Draft EIR impact significance conclusions and mitigation measures related to emergency evacuation routes remain adequate, and no changes to the significance conclusions or mitigation measures are necessary in response to public comments received on the Draft EIR.

Emergency Response Community Coordination

Valley Water is committed to working with the community to bring together local public safety partners and community leaders to discuss access and evacuation concerns for the

neighborhoods near the Project Area. On November 21, 2024, Valley Water met with the County of Santa Clara, City of Morgan Hill, CALFIRE, and community leaders from the Holiday Lake Estates neighborhood to discuss access and evacuation concerns for neighborhoods near the Project Area. Together, the group discussed ideas to address these concerns, and planned for future meetings for parties within the group. The group will continue to meet periodically prior to and throughout Project construction, and the next meeting will be held in the spring of 2025.

7.3 Individual Responses to Comments

The agencies, organizations, and individual persons who provided comments during the Draft EIR public review and comment period are listed in Table 7-1. In this section, the commenters' original written comment letters are provided and labeled with alphanumeric codes indicating each discrete comment for which a response to comment was provided. In accordance with CEQA Guidelines Section 15088(a), lead agencies must respond to Draft EIR comments raising "significant environmental issues." As such, the response to comments provided in this section are focused on environmental issues and information contained in the Draft EIR. The responses to comments are provided as a grouping following each respective labeled comment letter.

Tiffany Chao

3

butterfly, Crotch's bumble bee, Hall's bush mallow, and woodland woollythreads could be covered by the amended Santa Clara Valley Habitat Plan.

A1-10
cont.

California Ridgway's Rail and Salt Marsh Harvest Mouse

The proposed project will increase the risk of predation on California Ridgway's rails and salt marsh harvest mice during major flooding events during construction that flood suitable tidal marsh vegetative cover. Salt marsh harvest mice nests could also be flooded during major flooding events during project construction. Valley Water will reduce the risk of predation by funding the U.S. Department of Agriculture Animal and Plant Health Inspection Service to conduct predator management during years when flows from Anderson Dam exceed 2,500 cubic feet per second. However, it is not clear if the predator management would include both mammal and avian predators or where the predator management would be implemented at the Don Edwards San Francisco Bay National Wildlife Refuge. Valley Water should further reduce the risk of predation on the California Ridgway's rail and salt marsh harvest mouse (especially if avian predators are not addressed by the proposed predator management) and compensate for flooding salt marsh harvest mice nests by enhancing high tide refugia cover within the action area (i.e., controlling invasive plant species and planting marsh gumplant and other suitable native high tide refugia plant species under a Service-approved plan similar to Valley Water's San Francisquito Creek Flood Reduction Project from San Francisco Bay to Highway 101 (Service 2016)).

A1-11

A1-12

San Francisco Bay-Delta Distinct Population Segment of Longfin Smelt

The DEIR states on p. 3.4-30 that the San Francisco Bay-Delta Distinct Population Segment of longfin smelt is a federal candidate species; however, the species is currently proposed to be listed as endangered.

A1-13

Bay Checkerspot Butterfly and Listed and Rare Serpentine Endemic Plants

The Service disagrees with the conclusion that the proposed project would have a less than significant impact on the Bay checkerspot butterfly and federally listed and rare serpentine endemic plants (e.g., Metcalf Canyon jewelflower, Santa Clara Valley dudleya, Coyote ceanothus, Tiburon paintbrush, most beautiful jewelflower, smooth lessingia, Mount Hamilton thistle, fragrant fritillary, Loma Prieta hoita, Hall's bush mallow, and woodland woollythreads) and that no mitigation is required. Atmospheric nitrogen deposition from proposed project vehicles during construction will facilitate the spread of invasive plant species into serpentine habitat resulting in the degradation of habitat for the Bay checkerspot butterfly and federally listed and rare serpentine endemic plants along Coyote Ridge and at Harvey Bear Ranch County Park. Project construction activities will also spread invasive plant species in serpentine habitat throughout and near the project area.

A1-14

Since the adverse effects of atmospheric nitrogen deposition on the Tiburon paintbrush are not covered by the Santa Clara Valley Habitat Plan, Valley Water proposes to mitigate the effects of atmospheric nitrogen deposition from proposed project construction by managing invasive plant species within the Paintbrush Hill occurrence of the Tiburon paintbrush on Valley Water land (Mitigation Measure TERR-1a(1)). However, since the nearby Paintbrush Canyon occurrence of the Tiburon paintbrush will also be adversely affected by atmospheric nitrogen deposition from the proposed project, Valley Water should fund the management of invasive plant species within that occurrence as well under a Service-approved plan.

A1-15

Response to Comment A1-1

This comment largely repeats information contained in the Draft EIR, and does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A1-2

This comment summarizes coverage of the majority of proposed Project activities, effects on many of the listed species, and habitats potentially affected by the VHP. Valley Water agrees with this summary, and no further response is required.

Response to Comment A1-3

This comment reiterates information in the Draft EIR regarding activities/species effects that are not covered by the VHP and do not raise a significant environmental issue related to EIR adequacy. No further response is required.

Response to Comment A1-4

This comment reiterates information in the Draft EIR regarding activities/species effects that are not covered by the VHP and do not raise a significant environmental issue related to EIR adequacy. No further response is required.

Response to Comment A1-5

This comment reiterates information in the Draft EIR regarding activities/species effects that are not covered by the VHP and do not raise a significant environmental issue related to EIR adequacy. No further response is required.

Response to Comment A1-6

This comment reiterates information in the Draft EIR regarding activities/species effects that are not covered by the VHP and do not raise a significant environmental issue related to EIR adequacy. No further response is required.

Response to Comment A1-7

This comment reiterates information in the Draft EIR regarding activities/species effects that are not covered by the VHP and do not raise a significant environmental issue related to EIR adequacy. No further response is required.

Response to Comment A1-8

This comment reiterates information in the Draft EIR regarding activities/species effects that are not covered by the VHP and do not raise a significant environmental issue related to EIR adequacy. No further response is required.

Response to Comment A1-9

This comment reiterates information in the Draft EIR regarding activities/species effects that are not covered by the VHP and do not raise a significant environmental issue related to EIR adequacy. No further response is required.

Response to Comment A1-10

Valley Water acknowledges that the proposed Project's effects on the monarch butterfly, Crotch's bumble bee, Hall's bush mallow, and woodland woollythreads could be covered by the amended VHP if the VHP amendment is completed prior to initiation of Project activities affecting these species.

Chapter 2, *Project Description*, of the Final EIR has been revised to indicate that Valley Water would implement the FOCPP Milkweed Survey Plan unless and until the monarch butterfly is added to the VHP as a covered species, and that Valley Water would implement the FOCPP Crotch's Bumble Bee Avoidance Plan as long as the species is legally protected or unless and until the Crotch's bumble bee is added to the VHP as a covered species.

In Table 2-1, *Project Components*, starting on page 2-24 of the Final EIR, the Component description for Construction Phase Vegetation Monitoring has been revised as follows:

Vegetation monitoring would be implemented under several approaches until completion of Project construction. Vegetation monitoring efforts would include continuation of FOCPP monitoring plans, including *Phytophthora Pathogen Management Plan* (Valley Water, 2020b 2020f), *Post-Project Phytophthora Monitoring Plan* (Valley Water, 2021h), *Wetland and Riparian Habitat Dryback Monitoring* (Valley Water, 2020c 2020f), and (unless and until the monarch butterfly is added to the VHP as a covered species) the *Milkweed Survey Plan* (Valley Water, 2020d). More information is provided in Section 2.7.4.

In Table 2-1, a new row has been added to describe Construction Phase Terrestrial Animal Monitoring, with the following Component description:

Valley Water would continue to conduct surveys for several terrestrial animal species that occur during the FOCPP. Such surveys include annual surveys for nesting bald eagles (*Haliaeetus leucocephalus*) and golden eagles (*Aquila chrysaetos*), and annual monitoring surveys at a pallid bat (*Antrozous pallidus*) roost near Anderson Dam. In addition, implementation of the FOCPP *Crotch's Bumble Bee Avoidance Plan* (Valley Water 2024) would continue during Project construction, as long as the species is legally protected or unless and until the Crotch's bumble bee is added to the VHP as a covered species. More information is provided in Section 2.7.7.

Response to Comment A1-11

Valley Water agrees that increased flows during Project construction, though limited to intermittent periods of short duration, could flood salt marsh harvest mouse nests. Per the comment, the following text has been added under Impact TERR-1j (San Francisco Bay Special-Status Species) for the Seismic Retrofit Construction impact analysis on page 3.5-168 of the Final EIR:

Salt marsh harvest mice may breed March to November. Although the species has evolved with exposure to high wet-season flows, and thus it is unlikely to breed in numbers during the wet season, high flows during the period March-November could inundate nests of this species.

The predator management described in Mitigation Measure TERR-1j (Contribution to Baylands Predator Management) on pages 3.5-178 and 3.5-179 of the Final EIR would include both mammalian and avian predators. Per the comment, this mitigation measure has been revised as follows to clarify this (in addition to other revisions specified in Response to Comment A1-12 below):

That agreement will specify the funding that Valley Water will provide for predator management of avian and mammalian predators and, generally, how...

As indicated in Mitigation Measure TERR-1j, biologists at the Don Edwards San Francisco Bay National Wildlife Refuge will determine exactly where predator management will be implemented based upon their expert assessment of where predator management funding should be prioritized to address the most pressing predation issues. Refuge biologists, who are those most knowledgeable about predation issues affecting special-status baylands species at any given time, routinely coordinate with staff of the U.S. Department of Agriculture Animal and Plant Health Inspection Service to prioritize predator management on and around the Refuge.

Response to Comment A1-12

Valley Water agrees to contribute funding to efforts to enhance high tide refugia for baylands species such as the California Ridgway's rail and salt marsh harvest mouse to further reduce the risk of predation on these species during increased flows that may occur during Project construction. Per this comment (and the edit made in Response to Comment A1-11 above), Mitigation Measure TERR-1j has been revised as follows:

TERR-1j Contribution to Baylands Predator Management and High Tide Refugia Enhancement

Valley Water will contribute funds to be used for predator management and enhancement of vegetation providing high tide refugia in areas where predation of the California Ridgway's rail and/or salt marsh harvest mouse could occur in South San Francisco Bay. For predator management, Valley Water will provide \$22,500 in funding (approximately half of the entire 2022 predator management budget for the Don Edwards San Francisco Bay National Wildlife Refuge) for each year during Seismic Retrofit construction in which flows through Anderson Dam exceed 2,500 cfs. Valley Water will develop and implement an agreement with the U.S. Department of Agriculture Animal and Plant Health Inspection Service (APHIS), which performs predator management in coordination with the Refuge. That agreement will specify the funding that Valley Water will provide for predator management of avian and mammalian predators and, generally, how APHIS personnel will utilize those funds. In any given year, how those funds are spent will be determined by Refuge biologists, who routinely work with APHIS to prioritize predator management needs based on the most pressing predation issues occurring around the Refuge, on special-status species, at that time.

Prior to the start of Seismic Retrofit construction, Valley Water will provide APHIS with \$45,000 in funding, representing 2 years' predator management activities. This funding will be provided in advance of impacts from >2,500 cfs flows through the dam actually occurring, and for more than one year's predator management, to assist APHIS in planning for its staffing needs to perform the necessary predator management. Subsequently, during each year of Seismic Retrofit construction, Valley Water will monitor whether flows through Anderson Dam exceed 2,500 cfs. If such flows occur in a given calendar year, \$22,500 will be debited from the initial payment of \$45,000. If flows exceed 2,500 cfs in two years during construction, Valley Water will provide another \$22,500 payment for another, future year of predator management. Valley Water will continue to make such payments for each year in which flows exceed 2,500 cfs during Seismic Retrofit construction.

For enhancement of high tide refugia, Valley Water will contribute funds to one or more ongoing programs that focus on removal of nonnative marsh vegetation and/or planting or management of native marsh vegetation that provides suitable high tide refugia for species such as the California Ridgway's rail and salt marsh harvest mouse. Examples of programs to which Valley Water might contribute include the San Francisco Bay Sea Lavender Control Program, the Invasive Spartina Project (to which Valley Water might contribute funds for restoration rather than invasive Spartina control), or revegetation efforts performed by Save the Bay or other organizations. Valley Water will contribute \$20,000 to such programs (in addition to the \$22,500 contribution to predator management discussed above) for each year in which flows exceed 2,500 cfs during Seismic Retrofit construction.

Response to Comment A1-13

Longfin smelt is a federal candidate species and has been proposed for listing as endangered (87 FR 60957). In response to this comment, Final EIR Section 3.4.1.1, *Fisheries Resources and Related Aquatic Habitat*, on page 3.4-30 has been revised as follows:

The San Francisco Bay-Delta DPS of longfin smelt (longfin smelt) occurs in the tidally influenced portions of Coyote Creek as well as Alviso Slough, and is a federal candidate species for ESA protection, is listed as endangered under the ESA (89 FR 61029), and is listed as threatened under the California Endangered Species Act (USFWS 2021, CDFW 2018b).

Response to Comment A1-14

Valley Water acknowledges that the Project could impact the Bay checkerspot butterfly and rare serpentine endemic plants (e.g., Metcalf Canyon jewelflower, Santa Clara Valley dudleya, Coyote ceanothus, Tiburon paintbrush, most beautiful jewelflower, smooth lessingia, Mount Hamilton thistle, fragrant fritillary, Loma Prieta hoita, Hall's bush mallow, and woodland woollythreads) via the release of nitrogen oxides that are deposited on serpentine communities and the spread of invasive plants into serpentine habitat during construction. Such impacts are addressed in Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, of the Final EIR on pages 3.5-95 to 3.5-104 for special-status plants and 3.5-104 and 3.5-111 for the Bay checkerspot butterfly. However, aside from impacts on Tiburon paintbrush (as discussed in Impact TERR-1a of the Draft EIR), Valley Water maintains its conclusion that such impacts are less than

significant for reasons provided in Master Response 3 and responses to specific comments below (see Response to Comments A1-16 to A1-19).

Response to Comment A1-15

Impact TERR-1a in the Draft EIR discusses the effects of atmospheric nitrogen deposition on Tiburon paintbrush, which is a covered species under the VHP. In response to this comment, to mitigate this effect, in addition to managing invasive plants at Valley Water's Paintbrush Hill occurrence as proposed in Mitigation Measure TERR-1a(1) of the Final EIR, Valley Water agrees to contribute funding to the management of invasive plant species within the nearby Paintbrush Canyon occurrence of Tiburon paintbrush. Per this comment, Mitigation Measure TERR-1a(1) has been revised as follows:

TERR-1a(1) Invasive Plant Management at Valley Water's Coyote Ridge Tiburon Paintbrush Populations

Valley Water will offset impacts from Project-related nitrogen deposition on Tiburon paintbrush by performing providing for invasive plant management in and around the two Tiburon paintbrush populations currently known to occur on Coyote Ridge, including the "Paintbrush Hill" population located on Valley Water's Coyote Ridge property and the "Paintbrush Canyon" population on land owned by Waste Management, Inc. Nitrogen deposited on nutrient-poor serpentine soils facilitates the ability of nonnative grasses and forbs to compete with serpentine endemic plants such as Tiburon paintbrush, so invasive plant management would directly address and reduce the impacts of nitrogen deposition. During each year of construction for the Ogier Ponds CM, as well as the year following completion of that CM, Valley Water will perform manual weeding of plants considered to be of moderate or high invasiveness by Cal-IPC (2022) on the Paintbrush Hill population and perform manual weeding or fund weeding at the Paintbrush Canyon population. Such weeding will be performed at least twice during each growing season in which invasive plant management occurs. Weeding may be performed by hand or using hand-held motorized tools (e.g., line trimmers) as long as no impacts to individual Tiburon paintbrush plants would occur. Special care would be taken to avoid trampling individual Tiburon paintbrush plants, which are quite fragile.

Valley Water has been effectively managing its Tiburon paintbrush occurrence on Paintbrush Hill with a detailed demographic study of population, distribution, and trend for the past five years and thus, USFWS approval of the plan for invasive plant management at these Tiburon paintbrush populations is not necessary to avoid or reduce a significant CEQA impact. Valley Water's demographic study includes population monitoring, limited seed collection and banking, and an assessment of habitat quality and threats. The data in these reports will be used as a basis for development of the invasive plant management plan.

Response to Comment A1-16

Please refer to *Master Response 3 – VHP Reduction of Impacts to Less than Significant*. As discussed in the Master Response, Project impacts on Hall's bush mallow and woodland woollythreads, including those associated with nitrogen deposition, would be less than significant based on avoidance and minimization provided by compliance with VHP AMMs and Conditions, and payment of land cover and serpentine impact specialty fees, as well as the management, conservation, and enhancement of these habitat types pursuant to the VHP

conservation strategy. Therefore, mitigation measures to further reduce impacts, including additional funding for management of invasive plants within Coyote Ridge occurrences of these species, are not necessary.

Response to Comment A1-17

Please refer to Master Response 3 for discussion of why impacts of nitrogen deposition resulting from the Project are covered by the VHP and avoided and minimized by compliance with VHP Conditions and payment of VHP impact fees, which contribute to implementation of the VHP's conservation strategy for serpentine habitat even though this Project is not required to pay nitrogen impact fees. By complying with VHP requirements and Conditions (including payment of all VHP impact fees applicable to this Project), the Project's nitrogen deposition impacts are less than significant. It is not necessary that the VHP fund management to address nitrogen deposition at every location where serpentine-associated special-status plants occur in order for the VHP to adequately offset nitrogen deposition effects of covered activities.

Response to Comment A1-18

Please refer to Master Response 3 for discussion of why impacts of nitrogen deposition on Bay checkerspot butterfly and the federally listed serpentine endemic plant species resulting from the Project are covered by the VHP and avoided and minimized by compliance with VHP Conditions and payment of VHP impact fees, which contribute to implementation of the VHP's conservation strategy for serpentine habitat even though this Project is not required to pay nitrogen impact fees. By complying with VHP requirements and conditions (including payment of all VHP impact fees applicable to this Project), the Project's nitrogen deposition impacts are less than significant, and no additional mitigation (e.g., funding additional invasive plant management as proposed by this comment) is necessary.

Response to Comment A1-19

Please refer to Master Response 3 for discussion of why impacts of nitrogen deposition resulting from the Project are avoided and minimized by compliance with the VHP and payment of VHP impact fees, which contribute to implementation of the VHP's conservation strategy for serpentine habitat even though this Project is not required to pay nitrogen impact fees. By complying with VHP requirements and Conditions (including payment of all VHP impact fees applicable to this project), the Project's nitrogen deposition impacts are less than significant, and no additional measures to reduce impacts (e.g., using only electric vehicles during project implementation, as proposed by this comment) are necessary. In addition, Valley Water's Climate Action Plan includes a strategy and implementation actions to reduce greenhouse gas emissions (which would also result in a reduction in nitrogen emissions) associated with the Valley Water fleet.

Response to Comment A1-20

Based on the recent split of western pond turtle into two species, the Draft EIR has been revised to replace all references to western pond turtle with northwestern pond turtle (*Actinemys marmorata*), except where the term "western pond turtle" is used in reference to the "Western

Pond Turtle Monitoring Plan,” which is the name for reference to the monitoring plan prepared to address the species now referred to as the northwestern pond turtle.

Valley Water has reviewed its analysis and maintains its conclusion that Project impacts on the northwestern pond turtle would be less than significant. The majority of Project impacts on this species, including increased risk of predation when the reservoir is dewatered, being run over, heat stress, or starving are covered by the VHP. The VHP offsets such impacts through its conservation program, which includes the creation, enhancement, management, and preservation of suitable habitat for, and populations of, the northwestern pond turtle. With Project compliance with the VHP, which is considered a component of ADSRP, impacts of those covered activities on the northwestern pond turtle would be less than significant.

Impact TERR-1d in Final EIR Section 3.5.4, *Impact Analysis*, explains that dewatering of Anderson Reservoir for one additional year beyond the dewatering period covered by the VHP would not be a covered activity under the VHP, but this additional period of dewatering has a very low potential to result in impacts on northwestern pond turtles. Monitoring of Anderson Reservoir in accordance with the FOC *Western Pond Turtle Monitoring Plan* has not resulted in any detections of the species in Anderson Reservoir during monthly surveys April-July 2021, March-July 2022, and March-July 2023. Reservoir dewatering and Project construction activities in the reservoir bed during 3.5 years of VHP-covered dewatering prior to the single year of non-VHP-covered dewatering are likely to reduce the likelihood of northwestern pond turtle occurrence in the reservoir during that final year of dewatering even further. Therefore, no significant impacts on northwestern pond turtles are expected to result from the additional year of dewatering. Nevertheless, to account for the unlikely event that a northwestern pond turtle occurs in the dewatered reservoir bed during the final year of dewatering, Mitigation Measure TERR-1c(1) has been revised to include the northwestern pond turtle in the avoidance and minimization measures implemented during the single year of non-VHP-covered dewatering, as follows:

TERR-1c(1) Special-Status Species Avoidance and Minimization Measures During Year 6 Reservoir Dewatering

Valley Water and/or its contractor will implement the following AMMs during Year 6 construction activities (i.e., dewatering; movement of construction personnel, vehicles, and equipment; or storage or stockpiling of equipment or materials) in the dewatered bed of Anderson Reservoir:

- Prior to Year 6 construction activities, Valley Water will obtain approval from USFWS and CDFW of appropriate relocation sites for all life forms of the California tiger salamander, California red-legged frog, and foothill yellow-legged frog, and northwestern pond turtle.
- A qualified biologist approved by USFWS and CDFW (hereafter “approved biologist”) Will conduct a preactivity survey for all life forms of the California tiger salamander, and California red-legged frog, and northwestern pond turtle (as well as the foothill yellow-legged frog, even though it is unlikely to be present) in areas where they could be stranded or desiccated as those pools are pumped out or dry out. Any individuals detected will be moved to USFWS/CDFW-approved relocation sites.

- Within 48 hours prior to the start of construction or other activities within the bed of the reservoir, following dewatering in the spring of Year 6, an approved biologist will conduct a preactivity survey for all life forms of the California tiger salamander, California red-legged frog, and foothill yellow-legged frog, and northwestern pond turtle in areas where they could be subject to impacts from activities in the bed of the reservoir during Year 6 construction. Any individuals detected will be moved to USFWS/CDFW-approved relocation sites.
- Before any heavy equipment stored overnight is moved, a dedicated member of the construction crew trained by an approved biologist will inspect the area underneath and around the equipment to determine that no California tiger salamanders, California red-legged frogs, or foothill yellow-legged frogs, or northwestern pond turtles are present and at risk of being crushed by moving equipment. If an individual of one of these species is present in an area where it could be killed or injured by Project activities, that member of the construction crew will contact the approved biologist, who will capture and relocate the animal to a USFWS/CDFW-approved relocation site.
- An approved biologist will be onsite or on-call during all activities that could result in the take of the California tiger salamander, California red-legged frog, or foothill yellow-legged frog, or northwestern pond turtle to determine that all Conservation Measures are being implemented appropriately and to relocate any individual of these species that needs to be relocated to avoid injury or mortality.

Response to Comment A1-21

Valley Water acknowledges that cooler water temperatures resulting from post-construction Anderson Dam operations to expand the CWMZ in Coyote Creek downstream from Anderson Dam as necessary to benefit steelhead, Chinook salmon, and other COLD beneficial uses could necessitate increased basking by northwestern pond turtles; this impact was addressed on pages 3.5-89 and 3.5-125 to 3.5-132 of the Final EIR. However, such impacts are less than significant because they are covered by the VHP. The VHP covers activities that were proposed at the time of VHP preparation by the Three Creeks Habitat Conservation Plan (HCP) within the VHP permit area (VHP page 1-18). Those Three Creeks HCP measures, stemming from the FAHCE *settlement agreement*, that are related to Anderson Dam have now been incorporated into the ADSRP as Conservation Measures and are therefore VHP-covered ADSRP components. Cold water releases from the hypolimnion of Anderson Reservoir, and eventual expansion of the Coyote Creek CWMZ to a total length of 8.5 miles, are specifically described in the VHP as VHP-covered components of the Three Creeks HCP (VHP page 2-82). Similarly, the VHP evaluated the impacts of cold water management on the northwestern pond turtle; for example, page 4-28 of the VHP states: “Implementation of new operating rules for reservoirs are anticipated to include modifications of reservoir releases that would change the area of wetted channel. The focus of these operating rules is to provide enhanced flow conditions and manage cold water habitat for listed fish species. However, changes to releases may also affect species covered under this Plan including California red-legged frog, foothill yellow-legged frog (if it occurs below reservoirs), and western pond turtle.” Thus, Project impacts on northwestern pond turtles resulting from reduced stream temperatures as a result of post-construction operations are less than significant, as Valley Water will comply with the VHP and the VHP’s conservation program will include measures to benefit northwestern pond turtles.

The use of chillers to reduce the temperature of imported water prior to release into Coyote Creek during Seismic Retrofit construction would not adversely affect northwestern pond turtles. As discussed on page 3.5-127 of the Final EIR, chillers are intended to maintain water temperatures in the CWMZ between Anderson Dam and the Ogier Ponds at suitable conditions for steelhead during construction. Those conditions are similar to Pre-FERC Order and Existing Conditions Baseline conditions and do not represent a departure from the temperature conditions that have been present for years in this reach of Coyote Creek.

Response to Comment A1-22

Dewatering of Anderson Reservoir would not result in a substantial increase in mobilization of invasive species downstream, relative to the Pre-FERC Order and Existing Conditions baselines. Any invasive species within the reservoir can already be transported downstream under baseline conditions, and further dewatering of the reservoir would not transport new invasive species or larger numbers of invasive species than can currently be mobilized downstream.

The potential for imported water to transport nonnative species and pathogens is discussed in the Final EIR on pages 3.5-80 and 3.5-85. As stated therein, Valley Water already uses imported water in Coyote Creek. The nonnative species and pathogens in the system are the result of a number of historical causes and would not be increased by construction or operation of the Project. Thus, there is no change in the potential for introduction of nonnatives or pathogens relative to the Pre-FERC Order and Existing Conditions baselines. Furthermore, the use of imported water by Valley Water to supplement streamflow is explicitly covered by the VHP (VHP pages 2-83 and 2-84). For further information on why the Project would not cause an increase in invasive species in Coyote Creek, please see Response to Comment A2-34.

Response to Comment A1-23

For reasons discussed in the Final EIR (Impact TERR-1d) and Responses to Comments A1-20 through A1-22 above, Project impacts on the northwestern pond turtle would be less than significant, and no additional enhancement of basking and nesting habitat is necessary. Also, as discussed on page 3.5-126 of the Final EIR, higher flows through the dam during Seismic Retrofit construction would enhance basking habitat. Some erosion of riparian habitat would occur, and downed trees in newly-opened, sunlit areas would provide high-quality basking sites for northwestern pond turtles.

Response to Comment A1-24

As discussed on pages 2-24 and 2-109 of the Final EIR, Valley Water would continue to implement the FOCP *Invasive Species Monitoring and Control Plan* during ADSRP construction to reduce adverse effects of invasive animals on a variety of native species, including the northwestern pond turtle. Long-term invasive species management (i.e., beyond the ADSRP construction period) is not necessary to reduce Project impacts on northwestern pond turtles or other special-status species to less than significant levels, and therefore is not proposed.

Response to Comment A1-25

As discussed on page 3.5-126 of the Final EIR, higher flows through the dam during Seismic Retrofit construction would enhance basking habitat for northwestern pond turtles. Some erosion of riparian habitat would occur, creating openings in the riparian canopy, and downed

trees in newly-opened, sunlit areas would provide high-quality basking sites for northwestern pond turtles. In addition, improvement of steelhead rearing habitat at the Ogier Ponds would include placement of woody debris in selected areas of Coyote Creek to enhance and restore fluvial processes and channel complexity. This activity would improve habitat conditions for northwestern pond turtles by improving basking habitat.

Response to Comment A1-26

Valley Water acknowledges that cooler water temperatures resulting from post-construction Anderson Dam operations to expand the CWMZ in Coyote Creek downstream from Anderson Dam could affect growth rates of California red-legged frog larvae; this impact was addressed in the Final EIR on page 3.5-119. However, on that same page, the EIR discusses that target water temperatures in the CWMZ are within the range of temperatures used by California red-legged frogs in some other areas, and that this species is unlikely to breed regularly or in numbers (if at all) in the CWMZ due to the abundance of nonnative predators and distance from more suitable breeding sites. Further, any impacts on California red-legged frogs resulting from reduced stream temperatures are less than significant because they are covered by the VHP, as discussed in detail in the Response to Comment A1-21.

California red-legged frogs would not be substantially affected by the transport of invasive predators downstream during reservoir dewatering, both due to the baseline abundance of such predators in Coyote Creek downstream from Anderson Dam and the limited occurrence of California red-legged frogs downstream from the dam.

No substantial impacts on California red-legged frogs would result from the transport of invasive species and amphibian diseases by imported water. The potential for imported water to transport nonnative species and pathogens is discussed in the Final EIR on pages 3.5-80 and 3.5-85. As stated on page 3.5-80 of the Final EIR, Valley Water already uses imported water in Coyote Creek. The nonnative species and pathogens in the system are the result of a number of historical causes and would not be increased by construction or operation of the Project. Thus, there is no change in the potential for introduction of nonnatives or pathogens relative to the Pre-FERC Order and Existing Conditions baselines. Furthermore, the use of imported water by Valley Water to supplement streamflow is explicitly covered by the VHP (VHP pages 2-83 and 2-84). For further information on why the Project would not cause an increase in invasive species in Coyote Creek, please see Response to Comment A2-34.

Response to Comment A1-27

As discussed on pages 2-24 and 2-109 of the Final EIR, Valley Water would continue to implement the FOCP *Invasive Species Monitoring and Control Plan* during ADSRP construction to reduce adverse effects of invasive animals on a variety of native species, including the California red-legged frog (to the extent this species occurs at all downstream from Anderson Dam). Long-term invasive species management (i.e., beyond the ADSRP construction period) is not necessary to reduce Project impacts on California red-legged frogs or other special-status species to less than significant levels, and therefore is not proposed.

The creation of off-channel breeding ponds for the California red-legged frog is not necessary to reduce Project impacts on this species to less than significant levels and is therefore not proposed. Further, even though off-channel ponds that dry up annually in fall may prevent breeding by bullfrogs, adult bullfrogs would still be able to (and likely would) use such ponds

and could therefore prey on California red-legged frog larvae, if red-legged frogs attempted to breed in such pools.

Response to Comment A1-28

As discussed in *Master Response 1 – Alternative Designs for Ogier Ponds*, the Ogier Ponds CM would not fill all of the former gravel pits at Ogier Ponds as recommended in the CDFW Alternative. However, the CM as proposed would create a geomorphically stable creek with a connected floodplain, improving steelhead habitat and passage, and adding new high-ecological-service and function habitat types and biological features to the creek and floodplain. The proposed design would completely fill and remove Ponds 1 and 5, partially fill Ponds 2 and 4, and construct earthen berms to separate the unfilled portions of Ponds 2 and 4 from the restored pre-1997 creek channel. As further described in Master Response 1, this design would not only benefit steelhead habitat and fish passage, but would also provide channel and floodplain habitat that benefits the northwestern pond turtle and other native and sensitive species consistently with stated goals of the USFWS. The Ogier Ponds CM also includes construction of 4.5 acres of wetlands that would provide nesting habitat for the tricolored blackbird and other marsh species. Based on its benefits for steelhead and to sensitive habitat types and species within the watershed and improvements made through the TWG and in response to technical assistance from NMFS, NMFS now supports the Ogier Ponds CM. See *NMFS Comments on Draft Petition for Surrender of the Hydroelectric Exemption and Draft Biological Evaluation for the Anderson Dam Seismic Retrofit (FERC Project No. 5737-007)* dated December 28, 2023 (page 1, paragraph 2) and April 21, 2024 (page 2, paragraph 1) confirming that due to Technical Assistance provided to Valley Water, NMFS has four issues remaining that do not include the design of Ogier Ponds.

The Ogier Ponds CM as designed minimizes construction impacts to, and retains much of the existing open water, wetland, and riparian habitat within the pond complex. Taking into account the restoration of a high-quality perennial stream channel that is offline from the larger ponds; the considerable increase in riparian woodland, forest, and scrub that would be achieved by this CM; and the construction of 4.5 acres of wetlands, the Ogier Ponds CM would contribute to a net gain in waters with high ecological values and services, as compared not only to loss of open water habitat in the former gravel pits (as discussed by the comment), but also as compared to all ADSRP impacts to waters.

Further, as described in the Final EIR on pages 3.5-193 to 3.5-198, the Ogier Ponds CM as designed provides a net post-construction gain in stream, wetland, and riparian habitat types, and enhances ecological functions and services of these habitat types within the watershed. More specifically, the Ogier Ponds CM provides a Project-wide net increase in the following habitat types: perennial stream (10.54 acres), coastal and valley freshwater marsh (0.34 acres), and riparian woodland, forest, and scrub (19.75 acres). While the CM does not achieve in-kind compensatory mitigation for ADSRP impacts to open water habitat (15 acres of reservoir and 2.13 acres of permanent open water pond) at a 1:1 ratio due to the purpose of the restoration Project, the ecological functions and services of waters within the watershed are substantially improved by the net gains in freshwater marsh and seasonal wetlands, perennial stream, and riparian habitats. The net gain in these high functioning habitat types attained through the Ogier Ponds CM would also provide additional habitat to support basking and foraging of northwestern pond turtles, and nesting and foraging for a variety of sensitive bird species, including tricolored blackbirds. Existing ponds that provide habitat for northwestern pond

turtles and a variety of waterbirds would also be retained as part of impact minimization, and construction impacts to these areas would be avoided during the construction of the CM as recommended by USFWS.

In contrast, as described in Master Response 1, the CDFW Alternative is not necessary to achieve the goals of the Ogier Ponds CM, yet that alternative would impact 2-3 times the jurisdictional wetlands, waters, and riparian habitats of the Project; would have greater impacts on recreation; would necessitate 2-3.5 times the volume of fill as the Project; and would cost considerably more than the Project. Instead of filling only Pond 1, the suggested CDFW Alternative would completely fill and remove Ponds 1 through 6 to provide room for a larger floodplain than is included in the Ogier Ponds CM. The CDFW Alternative would require vegetation removal and excavation of approximately 300 acres of high-quality riparian woodland and grassland habitats to produce the fill needed to fill Ponds 1 through 6, as compared to the disturbance of approximately 19 acres of riparian habitat and 18 acres of open water to create the proposed CM. Based on the increased grading needed for construction of the CDFW Alternative, the alternative would result in much greater environmental impacts to air quality, noise, water quality, and biological resources than the Ogier Ponds CM. In addition, the CDFW Alternative would create considerably greater impacts on recreation than the proposed Ogier Ponds CM. While the proposed Ogier Ponds CM would be consistent with the County Parks Coyote Parkway INRMP, including the Perry's Hill recreational complex, the CDFW Alternative would conflict with the INRMP by eliminating all six ponds and related recreational values, and excavating Perry's Hill in its entirety. Based on the alternatives considered and the associated analysis done by Valley Water for the proposed Ogier Ponds CM and alternatives, Santa Clara County supports Valley Water's recommendation of the Ogier Ponds CM or the Ogier Ponds Alternative because both alternatives separate the creek from the ponds, provide existing pond habitat, and minimize impacts to existing recreation while allowing for future recreational opportunities.

Although far more impactful to the environment, the much wider floodplain created by the CDFW Alternative adjacent to Coyote Creek would not substantially improve ecological functions and services within the watershed, as compared to the proposed Ogier Ponds CM, because the majority of this expanded floodplain area would not be wetted by overflow flows from the creek during most years. The habitat components requested by USFWS would be better created by the Ogier Ponds CM than the CDFW Alternative.

Response to Comment A1-29

It is unlikely that California red-legged frogs occur regularly or in numbers at the Ogier Ponds, or that they would even following completion of the Ogier Ponds CM. Bullfrogs and large, nonnative centrarchid fish are numerous in the Ogier Ponds and likely would continue to be numerous, thus precluding the establishment or maintenance of a viable breeding population.

The creation of off-channel breeding ponds for the California red-legged frog is not necessary to reduce Project impacts on this species to less than significant levels and therefore is not proposed. Further, even though off-channel ponds that dry up annually in fall may prevent breeding by bullfrogs, adult bullfrogs would still be able to (and likely would) use such ponds and could therefore prey on California red-legged frog larvae, if red-legged frogs attempted to breed in such pools.

Off-channel ponds that dry in fall would provide seasonal habitat for the northwestern pond turtle, but that species would still need aquatic habitat in fall, so such ponds would not provide high-quality habitat for the species, and turtles would need to move out of those ponds to find aquatic habitat elsewhere. The restored reach of Coyote Creek at the Ogier Ponds, and the remaining perennial ponds that would then be off-line from the creek, would provide habitat for the northwestern pond turtle. Sunny grassland habitat is already present, and would continue to be present, around the Ogier Ponds to provide turtle nesting habitat.

The Project would not impact tricolored blackbird nesting habitat and does not need to create habitat for this species in off-channel ponds for impacts of the Project to be less than significant (see Final EIR pages 3.5-141 through 3.5-143).

Response to Comment A1-30

Streams in the Upper Penitencia Creek watershed above Cherry Flat Reservoir are small, typically ephemeral or intermittent streams. Such non-perennial streams do not provide high-quality habitat for, or support significant populations of, nonnative fish, crayfish, or turtles, and they do not provide breeding habitat for bullfrogs. Rather, the highest concentrations of these nonnative species in the upper watershed occur within ponds, including ponds on Valley Water-owned properties. Therefore, management of nonnative species in the Upper Penitencia Creek watershed should focus on ponds rather than streams. As called for by Mitigation Measure TERR-1c(2), Valley Water management of nonnative animal populations within those ponds would efficiently address the primary source of nonnative predators and competitors that might then disperse downstream into stream habitats occupied by the foothill yellow-legged frog. Thus, implementation of Mitigation Measure TERR-1c(2) as written would directly benefit the foothill yellow-legged frog by reducing nonnative predators and competitors of that species.

Response to Comment A1-31

The commenter's recommendations regarding the operation of Cherry Flat Reservoir will be taken into consideration when Valley Water undertakes reasonable best efforts to develop and execute a cooperative agreement with the City of San José regarding the operation of Cherry Flat Reservoir on Upper Penitencia Creek. However, the actual operation of Cherry Flat Reservoir to benefit red-legged frog, yellow-legged frog and northwestern pond turtle is not a Project component and is not required because post-mitigation impacts to these species (Impacts TERR-1c and TERR-1d) are less than significant. Also, operation of Cherry Flat Reservoir is subject to the discretion of its owner, the City of San José.

Response to Comment A1-32

Regarding comments about impacts of pulse flows and cold-water releases on California red-legged frogs and foothill yellow-legged frogs, please refer to the Response to Comment A1-31; these recommendations will be considered when Valley Water seeks a cooperative agreement with the City of San José.

Response to Comment A1-33

Valley Water maintains its conclusion that Project impacts on the monarch butterfly are less than significant due to avoidance and minimization of impacts pursuant to implementation of the Milkweed Survey Plan combined with Valley Water's compliance with the VHP, as discussed

in the Final EIR under Impact TERR-1b and in Master Response 3. Since these impacts are less than significant, no further impact reduction measures are required.

The Final EIR (Impact TERR-1b) discusses the adverse effects of removal of milkweed and nectar plants. Although the spread of invasive plant species following construction could degrade habitat for the monarch butterfly, narrow-leaved milkweed (the butterfly's only native host plant on the Santa Clara Valley floor) itself often invades recently disturbed areas, and thus construction-related disturbance does not necessarily reduce the ability of milkweed to colonize impact areas. Further, the Project would implement BMPs and AMMs as discussed on Final EIR page 3.5-98 to minimize the potential for invasive plant species to dominate Project areas. Finally, as discussed on pages 2-24 and 2-105 of the Final EIR, Valley Water proposes to continue to implement the FOCM Milkweed Survey Plan during ADSRP construction, unless and until the monarch butterfly is formally added to the VHP as a covered species (at which point Valley Water would comply with all VHP conditions concerning the species in lieu of implementing the FOCM Milkweed Survey Plan). That Plan includes post-construction measures to determine whether areas subject to revegetation are suitable for milkweed, nectar plants, and monarch butterflies, having suitable soil and moisture conditions and not being in areas that would be subject to repeated maintenance impacts or the need for herbicide use. In areas found to be suitable, Valley Water would incorporate native milkweeds and nectar plants into the revegetation seed mix.

Also, the Project's compliance with the VHP would benefit the monarch butterfly. ADSRP's payment of VHP impact fees (including general land cover fees and specialty fees such as serpentine impact fees) would contribute directly to the VHP conservation program that benefits the monarch butterfly. For example, the VHP conservation strategy includes management of grassland and riparian habitats supporting milkweed through appropriate grazing management and invasive species management, and thereby maintains and enhances milkweed populations, benefitting habitat that supports the monarch butterfly. If the monarch butterfly is formally added to the VHP as a covered species, as is currently proposed, which may occur by 2026, the VHP will then include Conservation Measures specifically focused on this species. Valley Water would then comply with all VHP conditions concerning the species in lieu of implementing the FOCM Milkweed Survey Plan.

Response to Comment A1-34

As discussed on pages 2-24 and 2-105 of the Final EIR, Valley Water proposes to continue to implement the agency approved FOCM Milkweed Survey Plan during ADSRP construction, unless and until the monarch butterfly is formally added to the VHP as a covered species (at which point Valley Water would comply with all VHP conditions concerning the species in lieu of implementing the FOCM Milkweed Survey Plan). That Plan includes construction-phase measures, including avoidance (where feasible) and buffering of milkweed plants; inspection of milkweed that cannot be avoided for monarch eggs, larvae, or pupae; and removal of milkweed that cannot be avoided during the nonbreeding season. That Plan also includes incorporation of native milkweeds and nectar plants into the revegetation seed mix in areas that have suitable conditions and that would not be subject to repeated maintenance impacts or the need for herbicide use. Although revegetation with milkweed and nectar plants would replace such plants impacted by the Project, replacing impacted milkweed at a minimum 3:1 ratio as indicated in this comment is not necessary. Narrow-leaved milkweed is a regionally common and widespread species, and conditions for its natural colonization of areas impacted by the

Project would continue to exist following completion of construction, so natural recruitment will augment intentional seeding according to the FOCPP Milkweed Survey Plan. For reasons discussed in Impact TERR-1b, Master Response 3, and Response to Comment A1-33, Project impacts on the monarch butterfly are less than significant, and no further impact reduction is necessary.

Response to Comment A1-35

As discussed on pages 2-24 and 2-105 of the Final EIR, Valley Water proposes to continue to implement the FOCPP Milkweed Survey Plan during ADSRP construction, unless and until the monarch butterfly is formally added to the VHP as a covered species (at which point Valley Water would comply with all VHP conditions concerning the species in lieu of implementing the FOCPP Milkweed Survey Plan). That Plan includes post-construction measures to determine whether areas subject to revegetation are suitable for milkweed, nectar plants, and monarch butterflies, having suitable soil and moisture conditions and not being in areas that would be subject to repeated maintenance impacts. In areas found to be suitable, Valley Water would incorporate native milkweeds and nectar plants into the revegetation seed mix. For reasons discussed in Impact TERR-1b, Master Response 3, and Response to Comment A1-33, Project impacts on the monarch butterfly are less than significant, and no further impact reduction is necessary. Nevertheless, Valley Water would consider the commenter's recommendations regarding planting of milkweed and nectar plants when Valley Water incorporates milkweed and nectar plants into its revegetation seed mix for appropriate locations.

Response to Comment A1-36

Please refer to Response to Comment A1-35; no further impact reduction measures for impacts on the monarch butterfly are necessary. Nevertheless, the commenter's recommendations regarding planting of milkweed and nectar plants, and implementing the USFWS's conservation recommendations for the western monarch butterfly, would be considered when Valley Water incorporates milkweed and nectar plants into its revegetation seed mix for appropriate locations.

Response to Comment A1-37

Please refer to Response to Comment A1-35; no further impact reduction measures for impacts on the monarch butterfly are necessary. All seeds of milkweeds and nectar plants included in the revegetation seed mix in accordance with the FOCPP Milkweed Survey Plan would be native species, and no insecticides would be used on these plants by Valley Water. No plants that involve "harmful pesticide residues" as indicated by the comment would be included in the revegetation seed mix.

Response to Comment A1-38

Implementation of BMP HM-5 involving compliance with restrictions on herbicide use in upland areas and Dam Maintenance Program Mitigation Measure Wildlife-4, which requires that herbicides be used in accordance with existing court injunctions and Santa Clara County's Integrated Pest Management Ordinance and Valley Water BMPs, during maintenance activities and the buffers specified in the Milkweed Survey Plan would avoid and minimize the potential for herbicide impacts on monarch butterflies, their larval hostplants, and their nectar sources.

Since impacts to monarch butterfly are less than significant and measures have been incorporated into the Project to avoid and minimize the potential for herbicides and pesticides to impact milkweed and nectar resources, additional impact reduction measures suggested in measures 2, 3 and 4 recommended by USFWS are not required. With respect to measures 3, 4 and 5 recommended by USFWS, pursuant to the Milkweed Survey Plan, milkweed and nectar plants would not be incorporated into the revegetation seed mix in areas that would be subject to regular maintenance activities, including ongoing herbicide use or mowing.

Response to Comment A1-39

It would be infeasible to restrict all mowing to the period between November 1 and March 15, when monarch butterflies are likely absent. The growing season for grasses and forbs that necessitate mowing extends after March 15, and much of the growth of weedy plants such as mustards occurs after that date. However, in accordance with the Milkweed Survey Plan, milkweed and nectar plants would not be incorporated into the revegetation seed mix in areas that would be subject to regular maintenance activities, including mowing. This would more effectively minimize the potential for mowing and other habitat management impacts on monarch butterflies.

Response to Comment A1-40

As discussed on pages 2-24 and 2-105 of the Final EIR, Valley Water proposes to continue to implement the FOCIP Milkweed Survey Plan during ADSRP construction, unless and until the monarch butterfly is formally added to the VHP as a covered species (at which point Valley Water would comply with all VHP conditions concerning the species in lieu of implementing the FOCIP Milkweed Survey Plan). That Plan specifies that if milkweed plants and/or any life stages of the monarch butterfly are observed during milkweed or monarch surveys, a representative photo of milkweed (and monarch eggs, larvae, or pupae if detected) from each Project component where milkweed is detected would be reported to the Western Monarch Milkweed mapper, and observations of monarch butterfly eggs, larvae, or pupae would also be reported to the California Natural Diversity Database.

Response to Comment A1-41

Valley Water maintains its conclusion that Project impacts on the Crotch's bumble bee are less than significant, as discussed in the Final EIR in Impact TERR-1b and in Master Response 3. As discussed in Impact TERR-1b, the Project construction could impact foraging, nesting, and overwintering habitat and could impact individual bees and nests, and some habitat that exists in the bed of the dewatered reservoir in its drawdown condition would be removed when the reservoir is refilled following construction. However, given this species' scarce nature in the region, with most observations consisting of small numbers of individuals, the number of Crotch's bumble bees that would be impacted by the Project would likely be low. Further, the Project's compliance with the VHP would benefit the Crotch's bumble bee whether or not the species is formally added to the VHP as a covered species, as discussed on page 3.5-110 of the Final EIR and in Master Response 3. Continued implementation of the Milkweed Survey Plan, as discussed on pages 2-24 and 2-105 of the Final EIR, unless and until the monarch butterfly is formally added to the VHP as a covered species would also benefit the Crotch's bumble bee, which frequently uses narrow-leaved milkweed in summer. As a result, the Project would not

have a substantial adverse effect on the Crotch's bumble bee, and Project impacts on the species would be less than significant. Nevertheless, Valley Water is proposing to implement the FOCPP Crotch's Bumble Bee Avoidance Plan during ADSRP implementation to avoid take of individuals and active nests as long as the species is legally protected or unless and until the Crotch's bumble bee is formally added to the VHP as a covered species (at which point Valley Water would comply with all VHP conditions concerning the species in lieu of implementing the FOCPP Crotch's Bumble Bee Avoidance Plan). Table 2-1 in Chapter 2, *Project Description*, of the Final EIR has been revised to include implementation of the FOCPP Crotch's Bumble Bee Avoidance Plan as long as the species is legally protected or unless and until the species is added to the VHP as a covered species. In Table 2-1 on Final EIR pages 2-24, a new row has been added to describe Construction Phase Terrestrial Animal Monitoring, with the following Component description:

Valley Water would continue to conduct surveys for several terrestrial animal species that occur during the FOCPP. Such surveys include annual surveys for nesting bald eagles (*Haliaeetus leucocephalus*) and golden eagles (*Aquila chrysaetos*), and annual monitoring surveys at a pallid bat (*Antrozous pallidus*) roost near Anderson Dam. In addition, implementation of the FOCPP Crotch's Bumble Bee Avoidance Plan (Valley Water 2024) would continue during Project construction, as long as the species is legally protected or unless and until the Crotch's bumble bee is added to the VHP as a covered species. More information is provided in Section 2.7.7.

Also, the following text has been added to a new Section 2.7.7, *Terrestrial Animal Monitoring*, on Final EIR page 2-110:

During the FOCPP, Valley Water is implementing the CDFW-approved FOCPP Crotch's Bumble Bee Avoidance Plan (Valley Water 2024), which includes measures to survey for Crotch's bumble bees and their nests, avoid active nests and individuals if they are detected, and minimize impacts on the species' floral resources. Valley Water would continue to implement this Plan during Project construction, as long as the species is legally protected or unless and until the Crotch's bumble bee is added to the VHP as a covered species. If and when the Crotch's bumble bee is added to the VHP as a covered species, as proposed in an amendment currently being prepared, Valley Water's compliance with all VHP conditions related to this species would supersede continued implementation of the Crotch's Bumble Bee Avoidance Plan.

In addition, the following paragraph has been added to the Significance Conclusion Summary in Impact TERR-1b on Final EIR page 3.5-110:

Implementation of the FOCPP *Crotch's Bumble Bee Avoidance Plan*, which would continue unless and until the Crotch's bumble bee is added to the VHP as a covered species or is no longer legally protected, would avoid and minimize impacts on the Crotch's bumble bee. That plan requires surveys to detect Crotch's bumble bees and their nests, avoidance measures if individuals or nests are detected, and measures to minimize impacts to the species' floral resources. Implementation of the FOCPP Crotch's Bumble Bee Avoidance Plan would therefore minimize impacts on this species. If the Crotch's bumble bee is formally added to the VHP as a covered species as is currently proposed, Valley Water would comply with all VHP conditions concerning that species in lieu of implementing the FOCPP *Crotch's Bumble Bee Avoidance Plan*.

Implementation of this Plan is intended to avoid take of the species, as defined by the California Endangered Species Act; Valley Water would determine whether an incidental take permit from CDFW is necessary, with implementation of the Plan.

Response to Comment A1-42

Regarding the comment about insecticide-free milkweed plants and pesticide use, please refer to Response to Comment A1-38. Valley Water would include native milkweed seed in its revegetation seed mix for use in appropriate locations (e.g., areas where herbicides and insecticides would not need to be used), as described in the FOCPP Milkweed Survey Plan.

Response to Comment A1-43

Potential Project impacts on bald and golden eagles are discussed in the Final EIR in Impact TERR-1e. Valley Water has been coordinating regularly with the USFWS regarding potential effects of the FOCPP and ADSRP on eagles and intends to apply for an eagle take permit for Seismic Retrofit construction, as needed.

Key Uncertainties. Uncertainties are “key” if (1) the uncertainty has a high likelihood of affecting the success of the conservation measure, and/or (2) the uncertainty makes distinguishing between alternate adaptive responses difficult. Key uncertainties related to the success of ADSRP conservation measures in Coyote Creek include: (1) adequate opportunities for adult and juvenile salmonid migration; (2) successful spawning and fry emergence; (3) fry and juvenile steelhead growth and survival; (4) predation by non-native fish; (5) effective passage through Coyote Percolation Pond and at Coyote Percolation Dam; and (6) adequate food supply/benthic invertebrate productivity.

A2-19
cont.

Goals, Objectives, and Monitoring. We recommend development of both short-term and long-term goals and objectives for ADSRP. The short-term goals should be conservation of the existing CCC steelhead population in Coyote Creek below Anderson Dam during the construction of the ADSRP. The long-term goal should be the establishment of sufficient habitat and streamflow conditions in Coyote Creek to support a self-sustaining steelhead population with a high probability of long term (more than 100 years) persistence. Draft short-term and long-term objectives are not provided here, but should be developed in coordination with resource agencies and the FAHCE Adaptive Management Team. The AMP’s monitoring program must also include effectiveness monitoring to determine if specific conservation measures are achieving the desired biological response.

A2-20

A2-21

A2-22

A2-23

Conservation Measures

We appreciate the inclusion of conservation measures and provide the following summary of our recommendations to improve the ADSRP’s proposed measures. Additional comments may be found in the enclosed table.

A2-24

Habitat Enhancement Downstream of Ogier Ponds. Habitat enhancement actions in the reach of Coyote Creek between Ogier Ponds and Metcalf Road could greatly improve conditions for steelhead and Chinook spawning and rearing in Coyote Creek. Constructed aquatic habitat features such as gravel augmentation, installation of large wood and boulders, and the creation of side channels, benches, and vegetated gravel bars would benefit native fish. We recognize that the ADSRP has committed to the study of habitat enhancement opportunities in this area, but construction of habitat projects in this area is not proposed as part of this project. In consideration of the project’s significant impacts, several of which are unmitigated, we suggest Valley Water consider implementation of habitat restoration actions within this reach of Coyote Creek as part of the ADSRP.

A2-25

Geomorphic Flows. Optimal post-construction geomorphic flow releases are needed for sustaining ecological processes and maintaining downstream habitat quality. The DEIR identifies the potential benefits of the future implementation of the Geomorphic Flows Plan throughout the document. However, it does not provide a full description of the plan and also states that implementing the plan would require additional CEQA assessment. NMFS recommends the Geomorphic Flows Plan and the assumed initial flow rates presented in the September 2023 Biological Evaluation for NMFS Listed Species and Designated Critical Habitat for the ADSRP be included in this EIR. Any adjustments to the initial flows rates based on subsequent geomorphic flow assessments could be incorporated into the final Geomorphic Flows Plan. By incorporating the Geomorphic Flows Plan

A2-26

A2-27

Comment #	Topic	DEIR Page	DEIR Line(s)	DEIR Text	NMFS' Comments	
NMFS-1	Project Location	2-5	27	...(CWMZ), a 5-mile stretch...	Minor revision suggested - the length of the CWMZ is closer to 5.8 miles based on Table 3.4-3 on page 3.4-38 of the DEIR.	A2-40
NMFS-2	Project Location	2-5	29-30	Within this stretch of Coyote Creek (the CWMZ) there is the potential for effects to occur to ESA-listed steelhead (<i>O. mykiss</i>) as a result of Anderson Dam operations.	This section should acknowledge that effects to steelhead associated with Anderson Dam operations will extend further downstream than the CWMZ. Additionally, some effects of FOCP and ADSRP construction will extend beyond the CWMZ, including into portions of San Francisco Bay, such as increased levels of suspended sediment and fine sediment deposition.	A2-41
NMFS-3	Project Location	2-5	35-36	...the FCWMZ refers to the reach between Anderson Dam and Ogier Ponds, and is the area that is currently suitable habitat for <i>O. mykiss</i> .	Suggest revising this to indicate use of Coyote Creek by all life stages. Although the upper CWMZ (FCWMZ) is currently more suitable for all life stages of steelhead than the reaches downstream of Ogier Ponds, the downstream reaches downstream of Ogier Ponds do support migration and may also support some spawning and rearing (data on steelhead spawning and rearing in the downstream reaches is limited).	A2-42

Comment #	Topic	DEIR Page	DEIR Line(s)	DEIR Text	NMFS' Comments
					for flows released from Anderson Reservoir to 14°C to maintain temperatures of 18°C or less throughout the CWMZ. This more conservative temperature limitation is based on the best available information and is needed to address future more frequent dry and hot weather events associated with climate change.

A2-60
cont

Comment #	Topic	DEIR Page	DEIR Line(s)	DEIR Text	NMFS' Comments
NMFS-24	Analysis	3.4-89	30-33	Also, even with mortality of eggs, steelhead lay enough eggs that there could be enough fry to occupy the available habitat even with a large percent of mortality from incubating eggs so a decrease in survivorship of eggs may not be limiting to the population overall.	Decreased reproductive success and decreased egg-to-fry survivorship are concerning effects in any population, but are especially concerning within a population that has very low numbers. These effects have the potential for severe adverse population-level effects. Suggest expanding this analysis to consider an estimate of the amount of remaining spawning habitat, number of spawning adults, rate of egg-to-fry survival, and rate of rearing success.

A2-67

Comment #	Topic	DEIR Page	DEIR Line(s)	DEIR Text	NMFS' Comments
NMFS-39	Analysis	3.4-18	2-5	However, in the fall of 2021 and 2022, Valley Water detected no <i>O. mykiss</i> during rearing monitoring surveys in Upper Penitencia Creek (Valley Water 2022a, 2023), presumably due to dry back and reduced flow from extreme drought conditions.	Suggest expanding on what this means for the CCC steelhead that were relocated from Coyote Creek to Upper Penitencia Creek (UPC). Expand on what this suggests regarding the suitability of UPC for future fish relocations and for use as refuge habitat by migrating steelhead during the remainder of FOCP and ADSRP construction actions. Based on available information, it currently appears that UPC has important limitations that must be considered for the remainder of FOCP and ADSRP construction. While UPC is certainly an important tributary, it is appearing to be too small and/or too variable to act as a reliable multi-year (long-term) refuge for the CCC steelhead population in Coyote Creek during the several years of construction and habitat recovery that will occur.

A2-85

Comment #	Topic	DEIR Page	DEIR Line(s)	DEIR Text	NMFS' Comments
NMFS-46	EFH	3.4-35	30-32	Although coho salmon were not historically present and are not currently present in the Coyote Creek Watershed, coho salmon EFH is designated in Coyote Creek downstream of Anderson Dam (Leidy 2007).	<p>Revision recommended. Leidy et al. (2005) and Leidy (2007) identify probable historic occurrence of coho salmon in Coyote Creek. We suggest revising to: "Although Coho salmon were probably historically present in Coyote Creek (Leidy 2007, Leidy et al. 2005), they are not..."</p> <p>Note also that the Essential Fish Habitat in Coyote Creek is Pacific Salmon Essential Fish Habitat, which also applies to the non-listed Central Valley fall-run Chinook, which currently do occur in Coyote Creek.</p> <p>For Leidy et al. (2005) see: Leidy, R.A., Becker, G., and Harvey, B.N. 2005. Historical status of coho salmon in stream of the urbanized San Francisco Estuary, California. California Fish and Game 91(4):219-254</p>

A2-92

Response to Comment A2-1

Master Response 2 – Steelhead Impacts provides details on CEQA requirements for Project impact analyses and CEQA assessment of significance of Project construction impacts and cumulative impacts which differs from what the commenter asserts throughout the comment letter and summarizes in A2-1. Master Response 2 explains how the commenter misapprehends CEQA requirements for Project impact analyses and how Valley Water’s analysis and significance determinations properly comport with CEQA requirements.

The commenter mentions Chinook salmon and EFH as well in this comment, which are not described in Master Response 1, but would have the same response as for steelhead except that the current population of Chinook salmon derives mostly from hatchery strays of fall-run and late-fall run hatchery Chinook salmon that are a result of hatchery juveniles transported and released in San Francisco Bay and the Pacific Ocean (Garcia-Rossi and Hedgecock 2002) and are not listed as a state or federally endangered or threatened population.

Response to Comment A2-2

Master Response 2 explains in detail how, under CEQA, in analyzing a project's impacts, an EIR compares those impacts to existing environmental conditions, which are the baseline for impact analysis (CEQA Guidelines Section 15125(a)). The CEQA baselines for this Project include both the Pre-FOCP condition, including effects of historical changes to the watershed on steelhead populations, as well as the existing condition including implementation of the FOCP, which also considers all historical effects on the steelhead watershed population as well as the ongoing effects of FOCP. Further, the setting section accurately describes the Coyote Creek Watershed steelhead population under baseline conditions using empirical monitoring data, which is consistent with CEQA Guideline requirements for an environmental setting. For the reasons described in Master Response 2, the baseline conditions for CCC steelhead, CCC steelhead critical habitat, and EFH in Coyote Creek are adequately and appropriately described consistent with CEQA requirements.

Response to Comment A2-3

The commenter asserts that the severity of effects to the viability of the CCC steelhead population in the watershed is underrepresented and that many effects analyzed in the Draft EIR are likely to result in significant adverse effects to CCC steelhead and designated critical habitat in Coyote Creek that the commenter asserts to be incorrectly determined to be less than significant. The commenter calls out specifically: suspended sediment, fine sediment deposition, dewatering, fish relocation, low streamflow, warm water temperatures, impaired access to habitat, and “other effects” as being understated because they assert a lack of consideration in the impact analysis was given to the poor condition of the existing CCC steelhead population and habitat in Coyote Creek. Master Response 2 provides details on CEQA requirements for Project impact analyses and CEQA assessment of significance of Project construction impacts and cumulative impacts. Master Response 2 explains how the commenter misapprehends CEQA requirements for EIR baselines and impact analyses, and how Valley Water’s analysis and significance determinations properly comport with CEQA requirements. It demonstrates why

the Draft EIR did not underrepresent the severity of effects on suspended sediment, fine sediment deposition, dewatering (in the context of fish rescue and relocation), fish relocation, warm water temperatures (in the context of a delay in chiller installation under FOCP), and impaired access to habitat.

The commenter does not provide any detail on the assertion that low streamflow is an effect of the Project and why that would cause significant impacts. The EIR analysis does not find low streamflow to be an adverse impact. Flows would likely be more variable and sometimes higher under the Project (see Final EIR pages 3.4-112 and 3.4-113, 3.11-55 through 3.11-58, and Appendix F), and habitat criteria mapping shows that habitat would not be limited during the construction season when imported water would be used to maintain flows through the FCWMZ at a level that maintains steelhead rearing habitat (see Final EIR page 3.4-86). The commenter also does not provide more detail on what “other effects” entails, so Valley Water is unable to respond to that part of this comment.

Response to Comment A2-4

Master Response 2 provides details on CEQA requirements for Project impact analyses as compared to existing conditions of the affected resources, and CEQA assessment of significance of Project construction impacts and cumulative impacts. Those requirements differ from what the commenter asserts throughout the comment letter and are summarized in Response to Comment A2-3. Master Response 2 explains how the commenter misstates CEQA requirements for EIR baselines and impact analyses and how Valley Water’s analysis and significance determinations properly and accurately assess effects on steelhead, critical habitat, Essential Fish Habitat, and other fish species and habitat types, and comport with CEQA requirements.

The Project adds and enhances steelhead spawning and rearing habitat while improving migration conditions through large-scale restoration Project components specifically designed in consultation with the TWG to enhance steelhead habitat while also providing the flows (post-construction operations/FAHCE or FAHCE-plus modified flows) that would interact with the restoration components to provide a considerable net benefit to steelhead habitat in the Coyote Creek watershed and the steelhead population as a whole (both the San Francisco Bay Diversity Stratum and the DPS).

Response to Comment A2-5

The commenter recommends specific revisions to the analysis of effects to CCC steelhead, CCC steelhead critical habitat, and EFH. Responses to Comments A2-6 through A2-11 address these recommendations individually.

Response to Comment A2-6

The conditions of CCC steelhead and their habitat conditions in the Coyote Creek watershed are accurately described in Section 3.4.1, Environmental Setting, of the Draft EIR for both the Pre-FERC Order Baseline and the Existing Conditions Baseline using empirical monitoring data and habitat analyses.

Response to Comment A2-7

Master Response 2 provides detail on the steelhead impact analysis within the Draft EIR and how it comports with CEQA Guidelines. Master Response 2 explains how the EIR addresses each effect and how the significance determinations include all the effects from each Project action and the compounding effects of all Project components and actions, including both adverse impacts and benefits from Conservation Measures which are part of the Project.

Response to Comment A2-8

The commenter requests that the effects to coastal pelagic EFH and groundfish EFH be separated from the impacts to Pacific salmon EFH. The EIR does in fact consider the EFH types separately as stated in Final EIR Section 3.4.1.1, *Fisheries Resources and Related Aquatic Habitat*. In the last subsection under *Essential Fish Habitat*, the Final EIR explains that, “impacts on coho salmon EFH are indirectly addressed through evaluation of impacts on Chinook salmon and steelhead habitat,” while the limited amount of coastal pelagic and groundfish EFH in the study area “would have similar impacts as those on the estuarine species’ and can be considered indirectly analyzed through the impacts on [the estuarine] species”. In response to this comment, Section 3.4.1.1 of the Final EIR on page 3.4-36 has been revised with the following clarification:

The area of EFH for groundfish and pelagic fish affected by the Project is a very small proportion (<0.01%) of the total EFH designated for the species along the Pacific Coast. These habitats are present in a very limited area of the study area and these habitats are not expected to be impacted by project actions. Coastal pelagic and groundfish EFH would have similar impacts as those on the estuarine species’ (i.e., Impacts FR-1f, FR-1g, and FR-1h) and are analyzed by applying the estuarine species impacts analysis to consideration of the impacts on pelagic and groundfish species and EFH.

Response to Comment A2-9

Master Response 2 provides the explanation for why historical impacts, which are part of and reflected in the Pre-FERC Order Baseline, are not assessed under CEQA in the EIR as Project impacts. These historical effects that are not a result of the Project and include the following from the commenter’s bulleted list: access to historic[al] habitat, impaired sediment transport, and impaired floodplain and bar inundation and therefore are not discussed further. Altered hydrology as discussed by the commenter in Comment A2-51 also falls under this category but is addressed further in Response to Comment A2-51.

Suspended sediment is covered in Master Response 2 and Response to Comments A2-62, A2-64, and A2-68.

Water quality (including water temperature) is covered in Master Response 2 and Response to Comments A2-35 and A2-59. It is assumed that the commenter is referring to water quality during construction as water quality post-construction would be improved by the Project relative to baseline conditions given the ability to store water and create a cold water pool and the new multi-port intake that would allow all improved management of water temperature downstream post-construction.

Migration, spawning, and rearing is covered in the impact analyses throughout the Final EIR as these are the life history stages considered in the impact analysis, in addition to incubating eggs. Response to Comments A2-42, A2-68, A2-69, and A2-84 also relate to migration, spawning, and rearing.

Predation from introduced non-native species is covered in Master Response 2 and Response to Comments A2-34 and A2-73.

Overall, the EIR addresses the severity of impacts from the Project relative to appropriately defined baseline conditions that reflect the existing conditions of the steelhead population, including the magnitude, duration, frequency, and spatial extent of these impacts during ADSRP construction and the post-construction operation of Anderson Reservoir on fish resources and habitat. These impacts and their severity are identified, described, and analyzed extensively in Final EIR Section 3.4.4, *Impact Analysis*.

Response to Comment A2-10

As discussed in Master Response 2, Conservation Measures and their adaptive management are included in Chapter 2, *Project Description*, and the offsetting of adverse Project impacts to fisheries resources from the combination of CMs and their adaptive management is already described and factored into the fisheries impact analysis in Section 3.4.4.

Response to Comment A2-11

As discussed in Master Response 2, the fisheries resources impact analysis in Section 3.4.4 properly assesses the significance of ADSRP impacts on fisheries in accordance with CEQA requirements, including for CCC steelhead, CCC steelhead critical habitat, and EFH. Based on this analysis, no additional CEQA mitigation measures are required because Project fisheries impacts are not significant.

Response to Comment A2-12

The commenter refers to the Analysis, Project Area, Conservation Measures, Coyote Percolation Dam CM, Decommissioning, and EFH comments in the enclosed table. Response to Comments A2-40 through A2-102 address these topics.

Response to Comment A2-13

Valley Water remains committed to the FAHCE *Settlement Agreement* and providing flows that target a daily average temperature not to exceed 18°C at Golf Course Drive after the Ogier Ponds CM construction is completed. Because conditions reflecting Ogier Ponds CM construction completion are not (and cannot be) reflected in the WEAP model, it is difficult to determine the exact release temperatures that would be required in all years at all times. Model results do indicate 2-3°C of warming between Anderson and Ogier Ponds in the fall, but that only occurs at a release temperature of approximately 13°C. As release temperatures increase and the difference between air and water temperatures is reduced, it is expected that the subsequent downstream warming effect would also be reduced or eliminated.

Water temperatures measured by Valley Water since 2019 indicated that in October water temperatures at the CDL averaged 18.3°C and temperatures measured at the upstream end of

Ogier Ponds reflected an average decrease of 0.4°C, maintaining temperatures of less than 18°C in the FCWMZ. Accordingly, the assertion from NMFS that “The assumption that water temperatures will not warm by more than 2°C over this 5.5-mile reach of Coyote Creek is unrealistic and not supported by modeling or empirical data” is not accurate. Model results indicate that regardless of how the volume of the cold pool is calculated (14°C or 16°C), the release rate and release temperature necessary to maintain 18°C in the CWMZ are nearly identical in 20 out of 21 years. In low storage years when the difference in volume calculations may result in a difference in the release strategy, it is expected that the release temperature would not start to exceed 14°C until the fall. Empirical data for those conditions show that there would generally be a cooling effect on creek flows moving downstream at this time of year. Being able to release more water in low storage years has the potential to provide more steelhead habitat while still meeting the FAHCE temperature goals, which was the intent of the FAHCE Plus cold pool calculation adjustment.

However, given there is little difference in release temperature and release rate between FAHCE and FAHCE Plus in the model results, Valley Water will commit to the 14°C temperature maximum for defining the cold water pool as requested by NMFS. Section 5.5.3, *Anderson Dam Operated with FAHCE-Plus Modified Rule Curves (FAHCE-Plus Modified) Alternative*, on page 5-21 of the Final EIR was revised to more clearly state that Valley Water would implement the 14°C temperature target under the FAHCE-Plus Modified Alternative for reservoir releases as requested by the commenter. The text was revised to the following:

This increase in temperature criteria could allow ~~allows~~ a greater portion of the reservoir volume to be used to provide summer flows and would provide additional rearing habitat downstream, according to the model. However, consistent with NMFS technical recommendations agreed upon by the TWG, Valley Water would use the 14 degrees Celsius (°C) criterion pursuant to the Project for calculating the cold water pool under the FAHCE-Plus Modified Alternative and this is not anticipated to cause major changes in habitat relative to the modeled FAHCE-plus.

Valley Water would work with the AMT, which includes NMFS, regarding any adjustments to that release temperature to provide more steelhead habitat and still maintain temperature target of 18°C or less within the CWMZ as committed to in the FAHCE *Settlement Agreement*. Further, post-construction release and creek ambient water temperatures would be monitored and assessed pursuant to the AMP by the AMT, and if contrary to modeling predictions, daily average water temperatures of less than 18°C at Golf Course Drive are not maintained, adaptive management measures would be deployed to reduce water temperature in the CWMZ as required by the FAHCE *Settlement Agreement*.

Response to Comment A2-14

See Response to Comment A2-13.

Response to Comment A2-15

The commenter only refers to Appendix D of the EIR with regard to the AMP, but the EIR discusses the Post-Construction Project and FAHCE AMP (abbreviated throughout the EIR as the Project and FAHCE AMP). The Project and FAHCE AMP described in the EIR is a combination of the FAHCE AMP (see Section 6.4.2, *Fish Habitat Restoration Plan [FHRP]*), which establishes the

overall AMP framework, as well as the Project-specific AMP with goals and objectives specific to ADSRP effects and Conservation Measures (i.e., the table in Appendix D of this EIR), including effects and Conservation Measures not covered in the FAHCE AMP. The Project and FAHCE AMP does include: goals and measurable objectives related to creating sufficient habitat to support population viability by restoring and maintaining anadromous fish in Coyote Creek; a suite of monitoring activities, including both effectiveness and fish response monitoring; adaptive management actions; and ongoing annual reporting obligations. When the commenter considers the Project and FAHCE AMP as a whole, as discussed in the EIR, the details identified in the comment are provided.

The comment also asserts, “The monitoring program does not include monitoring of the fish response to actions and, thus, is not sufficient to evaluate the effectiveness of the ADSRP’s Conservation Measures.” Long-term monitoring described in the Project and FAHCE AMP and in the Biological Evaluation is sufficient to assess fish response, namely how the fish population changes in Coyote Creek, in general, and relative to the Conservation Measures which include FAHCE Phase 1 flow and non-flow measures. As discussed further in the Biological Evaluation (Valley Water 2024c), Valley Water has proposed several effectiveness monitoring measures to allow ongoing assessment of the progress made towards the overall restoration objective established for the FAHCE Program by the FAHCE Settlement Agreement, as follows:

- Migration flow monitoring in Coyote Creek FCWMZ would determine the efficacy of post-construction operations in creating migratory habitat conditions, for steelhead and Chinook salmon, as well as other anadromous fish.
- Sediment deposition monitoring, including water depth monitoring through riffle crests, would determine the efficacy of post-construction operations in creating migratory habitat conditions in Coyote Creek for steelhead and Chinook salmon, as well as other anadromous fish.
- The VAKI Riverwatcher installed and used for monitoring at the Coyote Percolation Facility fish ladder would document fish passage and determine efficacy of post-construction operations, the Coyote Percolation Phase 2 design, and the Coyote Percolation Phase 2 Operations plan in providing suitable conditions for adult and juvenile migration of steelhead and Chinook salmon, as well as other anadromous fish.
- Sediment deposition monitoring and habitat monitoring for Ogier Reach and Live Oak Reach would determine the effectiveness of the habitat restoration CMs in achieving suitable rearing and spawning habitat goals in those reaches for steelhead and Chinook salmon, as well as other native anadromous fish, and would inform ongoing maintenance, as well as Sediment Augmentation Program replenishment locations, volumes, and timing.
- Continued monitoring of Coyote Creek temperatures within the FCWMZ between May 1 through October 31 would be used to determine efficacy of post-construction operations in providing suitable water temperatures for steelhead rearing during the summer.

Final EIR Section 2.10 describes the Project and FAHCE Adaptive Management in more detail including long-term trend monitoring that would be included in the Project and FAHCE AMP. Long-term trend monitoring includes evaluation of ecosystem responses to management actions and/or natural drivers, including monitoring adult salmonid abundance, juvenile

steelhead density, salmonid migration, steelhead genetics, water quality, and species composition. This long-term data would be collected to inform fish response to Project actions, but monitoring approaches are also subject to the adaptive management process and can be modified in coordination with the AMT, which includes NMFS.

Response to Comment A2-16

The Project and FACHE AMP identifies specific adaptive management actions at both a program and Project-specific level. Because the Project and FAHCE AMP would be implemented in the long term after completion of the ADSRP, as is typically the case with any adaptive management framework, not all adaptive management actions can be precisely identified and detailed ahead of time because the results of the monitoring are not yet known. Monitoring would be reviewed with regulatory oversight of the AMT, including NMFS, and adaptive management measures currently identified in the FAHCE and Project AMP would be further evaluated and defined in more detail in light of then existing circumstances in coordination with the AMT to better meet the goals and objectives of the AMP incrementally when needed.

Response to Comment A2-17

The Project and FAHCE AMP includes both Project-level and FAHCE program goals and measurable objectives related to supporting population viability by restoring and maintaining sufficient anadromous fish in Coyote Creek. For example, the plan includes, “measurable objectives for salmonid passage, spawning and rearing” (see Section 6.4.2, *Fish Habitat Restoration Plan*). In addition, the FAHCE and Project AMP (Final EIR Appendix D) includes other more specific goals and objectives related to supporting population viability within Coyote Creek Watershed.

In addition, while Valley Water cannot be the sole responsible party for restoring and maintaining the viability of the CCC steelhead population, even in Coyote Creek, where other factors affect the population that are beyond Valley Water’s control (e.g., climate change, ocean conditions, etc.), Valley Water maintains its commitment to the overall FAHCE AMP management objective. The FAHCE AMP management objective is:

Implementation of the agreement will restore and maintain healthy steelhead trout and salmon populations as appropriate to each of the Three Creeks, by providing (A) suitable spawning and rearing habitat within each watershed, and (B) adequate passage for adult steelhead trout and salmon to reach suitable spawning and rearing habitat and for out-migration of juveniles.

Response to Comment A2-18

Response to Comments A2-15 through A2-17 above summarize the discussion in the EIR regarding the Project and FAHCE AMP, and its identification of goals and measurable objectives (including those related to fish population health), biological monitoring, and adaptive management actions. Response to Comment A2-19 below summarizes key uncertainties, which are consistent with those listed by NMFS in that comment.

Resource Agency Engagement

Particularly with respect to a process for regular and frequent resource agency engagement during adaptive management, the Project and FAHCE AMP combines program-level adaptive management required by the FAHCE *Settlement Agreement* and project-level adaptive management specific to the Project and its Conservation Measures. The Project and FAHCE AMP measures have been evaluated further at a project level¹ as required by both the FAHCE process and the ESA Section 7 consultation between FERC and NMFS. Because it includes the components of both of these adaptive management commitments, the Project and FAHCE AMP follows the process for long term regular and frequent resource agency engagement outlined in the FAHCE AMP. As described in Table 2-1 in Final EIR Section 2.4, *Overview of Project Components*, on page 2-26: “Adaptive management of all post-construction operations, and all non-flow fish barrier remediation and habitat restoration Conservation Measures would occur in accordance with the FAHCE AMP outlined in Section 6.2 of the FHRP, which was developed in accordance with the FAHCE *Settlement Agreement*.”

The FHRP is the Fish Habitat Restoration Plan prepared for the FAHCE Final Program EIR (Valley Water 2023a). The Final EIR has been certified by Valley Water’s Board of Directors and is publicly available. The FHRP is Appendix A to the FAHCE Final Program EIR. *Chapter 6 – Adaptive Management Program* of the FHRP outlines the philosophical framework and the process for the Adaptive Management Program for all three FAHCE watersheds, including Coyote Creek. In Section 6.7, the FHRP also describes the AMT and its composition, which includes the State and federal resource agencies (including NMFS), and details of the decision-making process are included in Section 6.8. Regular and frequent resource agency engagement would occur through annual meetings (FHRP Section 6.7.3) but “Valley Water anticipates there will be AMT meetings and interaction with members of the AMT throughout the year as issues or needs arise.” (FHRP Section 6.7.3; page 6-87).

Biological Monitoring

Particularly with respect to biological monitoring, Final EIR Section 2.10 describes the Project and FAHCE Adaptive Management in more detail. This section describes the three types of monitoring: compliance monitoring, validation monitoring, and long-term trend monitoring that would be included in the Project and FAHCE AMP. The text defines them consistent with the FHRP and as follows in Final EIR Section 2.10, *Project and FAHCE Adaptive Management Program*, on page 2-131:

- Compliance monitoring includes administrative metrics such as reservoir releases and cold-water pool volume, compliance with the schedule for implementing a particular program element (such as a site-specific passage impediment remediation project), or progress on planning or feasibility studies.
- Validation monitoring includes physical monitoring of instream flows, depth, velocity, water temperatures within the CWMZ and FCWMZ, areas of enhanced habitat, jump height and pool depth for passage impediments, habitat mapping to assess suitability for various life stages of salmonids, validating flow-habitat relationships, and other elements of the program.

¹ Project-level commitments for Conservation Measures and their adaptive management are commitments described and assessed in the Biological Evaluation prepared for NMFS during the formal ESA Section 7 consultation between FERC and NMFS.

- Effectiveness monitoring evaluates the progress made towards the overall restoration objective established for the FAHCE Program by the FAHCE Settlement Agreement , as follows:
 - Stream flow monitoring for Coyote Creek to determine the efficacy of post-construction operations in creating migratory habitat conditions for steelhead and chinook, as well as other native anadromous fish;
 - Water depth monitoring for POIs within Coyote Creek to determine the efficacy of post-construction operations in creating migratory habitat conditions in Coyote Creek;
 - Fish passage monitoring at Coyote Perc Phase 2 facility to determine the efficacy of post-construction operations, the Coyote Perc Phase 2 design, and the Coyote Perc Phase 2 Operations Plan in providing suitable conditions for adult and smolt migration; and
 - Sediment deposition and habitat monitoring for Ogier Reach and Live Oak Reach to determine the effectiveness of the habitat restoration CMs in achieving suitable rearing and spawning habitat goals in those reaches and to inform ongoing maintenance as well as Sediment Augmentation Program replenishment locations, volumes and timing.
- Long-term trend monitoring includes evaluation of ecosystem responses to management actions and/or natural drivers, including monitoring adult salmonid abundance, juvenile steelhead density, salmonid migration, steelhead genetics, water quality, and species composition.

Uncertainties, Goals, and Objectives

Section 2.10 of the EIR identifies and describes each of the four key elements of the Project and FAHCE AMP: Measurable Objectives, Monitoring, Adaptive Actions, and Reporting. Also, Section 2.10 refers to the Project-specific AMP in Appendix D that includes the goals and measurable objectives of the Project-level AMP.²

All measurable objectives, monitoring measures, adaptive management actions, and reporting requirements of the Project and FAHCE AMP are driven by and derived from the key uncertainties related to steelhead population identified in Comment A2-19, as described in more detail in Response to Comment A2-19 below. Although key uncertainties are not described specifically in the EIR, they are described in detail in FHRP Section 6.3, *Challenges and Uncertainties*.

The components of the Project and FAHCE AMP were developed to address these uncertainties relevant to Coyote Creek steelhead populations, as outlined in the FHRP.

Response to Comment A2-19

These key uncertainties are not described specifically in the DEIR but these uncertainties or their equivalents are described in detail in FHRP Section 6.3, *Challenges and Uncertainties*. All components of the Project and FAHCE AMP were developed to address the uncertainties relevant to Coyote Creek outlined in the FHRP.

² The same table was provided to NMFS in Table 3-14 of the Biological Evaluation prepared for ESA Section 7 consultation.

Table 7-3 outlines examples of how the commenter's key uncertainties are addressed through monitoring associated with the Project and FAHCE AMP.

Table 7-3. Monitoring that Addresses Uncertainties in the Project and FAHCE Adaptive Management Program

Uncertainty	Oversight	Monitoring/Studies
Adequate opportunities for adult and juvenile salmonid migration	OWG AMT	Critical Riffle Analysis Juvenile Migration Monitoring Adult Migration Monitoring Coyote Percolation Pond studies
Successful spawning and fry emergence	AMT	Annual juvenile rearing monitoring
Fry and juvenile steelhead growth and survival	AMT	Annual juvenile rearing monitoring Juvenile Migration monitoring
Predation by non-native fish	AMT	Temperature monitoring Annual juvenile rearing monitoring Coyote Percolation Pond studies
Effective Passage through Coyote Percolation Pond and at Coyote Percolation Dam	AMT	Juvenile Outmigration Monitoring Coyote Percolation Pond studies
Adequate food supply/benthic invertebrate productivity	AMT	Annual juvenile rearing monitoring Fish body condition analysis

Response to Comment A2-20

The construction phase monitoring, avoidance and minimization measures were developed as a result of Technical Assistance meetings with NMFS on the FOCP (for measures being carried over from that project to ADSRP) and ADSRP, and in consultation with the TWG. These construction phase measures comprise in large part a collection of Construction Monitoring data to drive real time decisions regarding implementation of avoidance measures, such as fish relocation, control invasive species, and pathogen control. In addition, these construction phase measures include implementation of VHP conditions and BMPs. Short term conservation of existing CCC steelhead in the creek during construction of ADSRP is addressed by construction phase CMs, construction monitoring, BMPs, and ongoing engagement with the TWG as described in Table 2-1 of the Final EIR, as well as in Appendices A and D. The construction monitoring described in Table 2-1 and Section 2.7.5, *Fisheries Monitoring*, (i.e., juvenile rearing and growth comparative studies, environmental DNA monitoring, Vaki Riverwatcher adult escapement monitoring, fish rescue and relocation monitoring, migration flow monitoring, migration studies, spawning surveys, spawning habitat quality and pool depth monitoring, and habitat restoration monitoring) is sufficient to assess fish response during construction, namely how the fish population changes in Coyote Creek below Anderson Dam during construction and whether additional management actions are necessary.

There is already flexibility and adaptability in the implementation of these construction phase, monitoring-driven AMMs, which are being implemented to reduce construction impacts to listed steelhead and other sensitive aquatic species. For example, Section 2.7.5, *Fisheries*

Monitoring, outlines data collection efforts to monitor conditions of steelhead and their habitat during the construction phase including passage, survival, growth, and habitat conditions on a year to year basis. The TWG reviews and then uses the information collected to direct the necessity, timing, and locations for management actions. The Fish Rescue and Relocation Plan uses temperature and DO monitoring for conditions that could harm or be fatal to steelhead. Temperature and DO data that indicate changes that could be harmful or fatal to steelhead trigger meetings with the TWG to determine whether and how to implement flow releases, fish rescue and relocation, or other management actions to prevent harm to steelhead. The Wetland and Riparian Habitat Dryback Monitoring Plan is used to track and determine the occurrence of dryback, and flow or habitat restoration management measures that can minimize impacts from altered flows (particularly when combined with drought conditions). Short term goals and objectives during construction are currently in place and to be implemented via construction phase implementation of a variety of CMs and Project components under the direction of the TWG. Any addition of short term goals and objectives to the Project and FACHE AMP would be redundant with these CMs, Project components and other AMMs already included in the Project to minimize and avoid and manage adverse impacts to steelhead.

Regarding long-term goals and objectives, the Project and FACHE AMP goals and objectives are described in detail in Sections 2.2 and 5.2 of the FHRP and supplemented in Appendix D of the Final EIR. The Final EIR includes long-term goals and objectives for enhancement and conservation of the existing CCC steelhead habitat and population in Coyote Creek below Anderson Dam following the construction phase of ADSRP. See Response to Comments A2-15 through A2-19. As described in Master Response 2, the ADSRP including all VHP conditions and AMMs, BMPs, and CMs included as components of the ADSRP are sufficient not only to avoid, minimize and offset the adverse Project and cumulative effects of the ADSRP, but are also anticipated to create long term benefits for steelhead habitat and populations within the Coyote Creek watershed, and adaptively managed to support the improvement of the steelhead population in the watershed, and therefore in the regional and DPS populations.

Response to Comment A2-21

Project and FACHE goals and objectives are described in detail in Sections 2.2 and 5.2 of the FHRP, and supplemented in Appendix D of the Final EIR and include steelhead population objectives. The FACHE AMP includes “measurable objectives for salmonid passage, spawning and rearing” (see Section 6.4.2, *Fish Habitat Restoration Plan*). The Project AMP (Final EIR Appendix D) includes more specific goals and objectives, including those related to supporting population viability. Neither CEQA nor the federal ESA require Valley Water to recover the steelhead population as necessary to create “a self-sustaining steelhead population with a high probability of long term (more than 100 years) persistence.”

As described in Master Response 2, the ADSRP, including all VHP conditions and AMMs, BMPs, and CMs included as components of the ADSRP are sufficient not only to avoid, minimize and offset the adverse project and cumulative effects of the ADSRP, but would create long term benefits for steelhead habitat and populations within the Coyote Creek Watershed, thereby supporting improvement of the steelhead regional and DPS populations. The goals and measurable objectives, monitoring measures, adaptive management measures and ongoing reporting and engagement process provided for by the FACHE and Project AMP are robust and designed to maintain regional steelhead population viability consistent with the FACHE AMP management objectives to “restore and maintain healthy steelhead trout and salmon

populations as appropriate to each of the Three Creeks, by providing (A) suitable spawning and rearing habitat within each watershed, and (B) adequate passage for adult steelhead trout and salmon to reach suitable spawning and rearing habitat and for out-migration of juveniles” (Valley Water 2023a). The FHRP provides more information about FAHCE goals and objectives.

Valley Water, however, cannot be the sole responsible party for the recovery and sustained viability of the CCC steelhead population, even in Coyote Creek, where other factors affect the population that are beyond Valley Water’s control (e.g., climate change, ocean conditions, etc.).

Response to Comment A2-22

See Response to Comments A2-20 and A2-21. In addition, these objectives were developed in coordination with the FAHCE AMT which includes State and federal resource agencies (including NMFS). As a component of the adaptive management post-construction, monitoring results would be reviewed with regulatory oversight of the AMT and adaptive management measures would be further evaluated and defined in more detail in light of then existing circumstances in coordination with the AMT to better meet fisheries goals and objectives.

Response to Comment A2-23

Section 2.10 of the Final EIR describes the Project and FAHCE Adaptive Management. This section describes the three types of monitoring: compliance monitoring, validation monitoring, effectiveness monitoring, and long-term trend monitoring that would be included in the Project and FAHCE AMP. The text defines them consistent with the FHRP and is presented as follows in Final EIR Section 2.10 and supplemented in Appendix D:

- Compliance monitoring includes administrative metrics such as reservoir releases and cold-water pool volume, compliance with the schedule for implementing a particular program element (such as a site-specific passage impediment remediation project), or progress on planning or feasibility studies. Validation monitoring includes physical monitoring of instream flows, depth, velocity, water temperatures within the CWMZ, areas of enhanced habitat, jump height and pool depth for passage impediments, habitat mapping to assess suitability for various life stages of salmonids, validating flow-habitat relationships, and other elements of the program. Effectiveness monitoring evaluates the progress made towards the overall restoration objective established for the FAHCE Program by the FAHCE Settlement Agreement, Long-term trend monitoring includes evaluation of ecosystem responses to management actions and/or natural drivers, including monitoring adult salmonid abundance, juvenile steelhead density, salmonid migration, steelhead genetics, water quality, and species composition.
 - Additional details of proposed effectiveness monitoring measures to allow ongoing assessment of the progress made towards the overall restoration objective established for the FAHCE Program by the FAHCE Settlement Agreement are presented in Response to Comment A2-15.

Response to Comment A2-24

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A2-25

As described in Section ES.6.2.4, *Lower Cold Water Management Zone Restoration Evaluation*, the information gathered within the geomorphic and habitat evaluation of the reach between Ogier Ponds to Metcalf Road would be used to identify, describe, and design future restoration opportunities in Coyote Creek, which Valley Water would consider through the Project and FAHCE AMP process. The benefits derived from the VHP conditions, AMMs, BMPs and CMs, particularly Ogier Ponds as currently described, are sufficient to offset the Project's adverse effects on fisheries per the analysis in the Final EIR, and therefore no additional mitigation is necessary. Please see Master Response 2 for further explanation of why the Project's fisheries impacts are not significant and no further CEQA mitigation is required. In addition, please see Master Response 1 regarding restoration provided by the Ogier Ponds CM and the design complexity and special-status species design considerations, as well as Response to Comments A2-56 and A2-28 for more information regarding potential habitat restoration downstream of Ogier Ponds.

Response to Comment A2-26

The Geomorphic Flows Plan is described in Table 2-1 on page 2-21 of the Final EIR. The description in Table 2-1 has been updated to include the same details, including initial flow rates, as were provided in the *Final Biological Evaluation for National Marine Fisheries Service Listed Species and Designated Critical Habitat Potentially Affected by the Anderson Dam Program* (No. 5737) to support the ESA Section 7 consultation as requested by the commenter. The updates to the Geomorphic Flows Plan described in Table 2-1 include the following:

Under the Component Description column:

The Geomorphic Flows Plan would identify flow releases from Anderson Dam that would be integrated into Post-Construction Operations to provide additional support for biological features of steelhead critical habitat that are maintained by periodic high flows capable of inundating the floodplain, scouring substrate, mobilizing gravel, and supporting channel migration, as described in the high flows principles of the California Environmental Flows Framework (CEFWG 2021). The Geomorphic Flows Plan would interact with the other conservation measures to achieve the following physical channel maintenance objectives downstream of Anderson Dam: mobilize substrate, scour and transport fine sediments, maintain unembedded gravel, support gravel bar formation, reduce riparian vegetation encroachment, support formation of inset benches and floodplains, increase channel migration and bank erosion, and create and maintain a wider active channel and topographic diversity.

Under the Construction Phase column:

Valley Water would start collecting the data needed and conducting the necessary analysis to work collaboratively with the TWG to develop the Geomorphic Flows Plan aimed at minimizing impacts by identifying the frequency, magnitude, and duration of Geomorphic Flow Releases necessary to achieve the physical channel maintenance objectives. Data collection and analysis may start during the Construction Phase and will continue into the Post-Construction Phase.

None

Under the Post-Construction Phase (O&M) column:

The Geomorphic Flows Plan would be prepared prior to completion of construction in consultation with the TWG, and implemented post-construction and would include specific flow targets to benefit steelhead and salmon, including floodplain inundation flows, and spawning gravel maintenance flows, and channel forming flows. Implementation of the Geomorphic Flows Plan would occur as part of future adaptive management in consultation with the AMT pursuant to the Post Construction Project and FAHCE AMP, and could require additional CEQA assessment. Initial assumptions for the plan are as follows but would be subject to the Project and FAHCE AMP process:

1. Floodplain inundation flows would initially be >65 cfs for at least 7 days every year and will be revised based on results of inundation mapping and consultation with the TWG.
2. Spawning gravel maintenance flows would initially be 250 cfs every three years for 24 hours and will be revised based on results of sediment transport modeling and consultation with the TWG.
3. Channel forming flows would initially be 1,000 cfs every seven years for 24 hours and will be revised based on results of sediment transport modeling and consultation with the TWG.

However, given that there may be changes in geomorphic flow releases through the adaptive management process, future CEQA analysis may still be required, like any other adaptive management action, if the adaptive management action results in greater impacts to any of the resources evaluated under CEQA, not just fisheries resources.

Response to Comment A2-27

See Response to Comment A2-26

Response to Comment A2-28

Section 2.6.3, *Sediment Augmentation Program*, of the Final EIR has been updated to revise the description of this program starting on page 2-90:

Sediment augmentation activities would improve geomorphic processes that create and maintain steelhead habitat (sediments and spawning gravels) and reduce channel incision that is typical in Lower Coyote Creek downstream of the dam. This program would consist of removing and stockpiling approximately 55,000 cy of suitable sediment from the exposed reservoir bottom between the Dunne Avenue Bridge and the Holiday Estates boat launch (Staging Area 6, Figure 2-4) throughout the duration of Project construction. Sediment used from an onsite source would be washed and sorted prior to placing it in Coyote Creek. Short-term material stockpiling would occur at the creek injection site within Staging Area 1, Staging Area 6, or within an Ogier Ponds Staging Area (Figure 2-4).

Valley Water would develop a Sediment Augmentation Program no later than two years prior to Valley Water's planned completion of ADSRP construction, in consultation with the TWG. Valley Water would place sediment materials in Coyote Creek in the Live Oak Restoration Reach and/or the Ogier Ponds Restoration Reach, beginning with the Live

Oak Restoration Reach, in collaboration with the TWG and using available monitoring data from the Live Oak Restoration Reach Project gravel augmentation program. At a minimum, Valley Water would ensure the Sediment Augmentation Program initially includes approximately 500 cy of sediment (composition to be determined with the TWG) placed within the Live Oak Restoration Reach following completion of ADSRP construction, including the Ogier Ponds CM and initiation of Anderson Dam post-construction operations. Annual sediment deposition and transport monitoring and long term habitat assessment monitoring would be conducted as a part of this Conservation Measure, and sediment in this reach would be replaced in an amount up to 500 cy as necessary to replenish sediment at least every 5 years. If high flow events mobilize all the injected sediment within the Live Oak Restoration Reach, additional sediment would be added during the 5 year period to replenish the volume of sediment placed. All additional sediment augmentation would occur within the Live Oak Restoration Reach and within the Ogier Ponds CM Restoration Reach.

Sediment augmentation would continue pursuant to the Project and FAHCE Adaptive Management Program on at least a 5-year replenishment schedule for up to 20 years. The sediment volume, placement location, schedule for placement, and duration of the program may be increased or decreased and may change during adaptive management in consultation with the AMT. Sediment loads for initial placement and replenishment would be delivered by trucks, and/or transported on conveyer belts, and placed using standard construction equipment. Each sediment augmentation site would utilize existing roads and trails to the extent feasible, but establishment of access roads may be necessary to deliver sediment to the channels, which may require some minor grading and/or vegetation removal. Sediment would not be placed directly in the channel except for the toe of the sediment pile, the rest would be placed adjacent to the channel or on benches above the channel so there would be minimal impact from introducing sediment to the channel at the time of placement.

Sediment materials would be placed in Coyote Creek at multiple locations between the Anderson Dam and Ogier Ponds. Sediment loads would be delivered by trucks, transported on conveyer belts, and placed using standard construction equipment. Initially, the trucks would off-load approximately 500 cy of sediment downstream of the dam, near the confluence of the North and South Channels within the Live Oak Restoration Reach or Ogier Ponds. If high flow events during construction mobilize all the injected sediment within the Live Oak Restoration Reach, additional sediment would be added. Each sediment augmentation site would require the establishment of access roads (or use of existing roads and trails) and a means to deliver sediment to the channels, which may require some minor grading and/or vegetation removal.

Over the long term, Valley Water would maintain and adaptively manage implementation of the Sediment Augmentation Program to address and offset sediment supply and transport effects of construction and operation of Anderson Dam, and support elements of steelhead critical habitat that are maintained by sediment and geomorphic processes, including spawning gravel quality and availability and rearing habitat. Valley Water would collect the data and conduct analysis from the sediment deposition monitoring, sediment transport modeling, and long-term spawning habitat assessment monitoring. Valley Water would share this data and information and work in coordination with the regulatory agencies composing the Adaptive Management Team (

AMT) to determine agree, based upon such data and analysis, upon appropriate injection locations, sediment volume, composition, and frequency of sediment augmentation, and duration of the program as required to meet the overall restoration objective of the Project and FAHCE AMP. In this way, the Sediment Augmentation Program would required to benefit over the long-term spawning gravel habitat and geomorphic conditions within the CWMZ without increasing flood risk or damage to infrastructure. Valley Water would conduct annual monitoring to determine the degree suitable steelhead spawning and rearing habitat remains within the CWMZ. At least every five years, Valley Water would replenish mobilized spawning gravels within the Live Oak Restoration Reach by placing up to the 500 CY of sediment (composition to be determined) in an amount up to 500 cy within the Live Oak Restoration Reach or Ogier Ponds CM Restoration Reach within the reach using the methods similar to the construction activities described for the initial placement of sediment under the Sediment Augmentation Program program in Years 2 through 10, and up to Year 15 below, but conducted on a smaller scale suitable for replenishment. In addition, every five years Valley Water would also determine based on annual monitoring data and in coordination with the AMT whether additional sediment augmentation should will be conducted using similar methods to assure long-term spawning and migration habitat suitability within the Ogier Ponds CM.

The long-term, post-construction adaptive management of the Sediment Augmentation Program would be implemented pursuant to in the Project and same manner pursuant the framework established by the FAHCE AMP, which includes Program, including ongoing coordination of adaptive management with the regulatory agencies composing the AMT, as described in that program and in Section 2.10.

The initial 500 cy is a minimum starting point for augmentation, and based on monitoring and additional sediment transport modeling, additional gravel would be augmented. As described in the *Final Biological Evaluation for National Marine Fisheries Service Listed Species and Designated Critical Habitat Potentially Affected by the Anderson Dam Program* (No. 5737), during adaptive management, Valley Water would collect the data needed and conduct the necessary analysis to work collaboratively with the TWG to agree upon appropriate sediment volume, composition, and frequency of sediment augmentation as well as monitoring methods to be described in the Sediment Augmentation Plan to improve spawning gravel habitat and geomorphic conditions without increasing flood risk or damage to infrastructure.

In addition, as detailed in Master Response 2, the permanent effects of rebuilding the dam on sediment supply are not an impact of the Project because those impacts are a result of historical watershed modification.

However, the Sediment Augmentation Program, together with the other CMs, assure that the ADSRP benefits steelhead and improves steelhead habitat as compared to both Pre-FERC Order and Existing Conditions baselines.

Response to Comment A2-29

Section 3.4.1, *Environmental Setting*, of the Final EIR discusses existing channel conditions and channel conditions under the Pre-FERC Order Baseline. The Project includes the development of a Sediment Augmentation Plan that would be based on the future sediment transport rates that

are not known at this time and would require monitoring and studies to determine (see Response to Comment A2-28). These studies are assumed to start with an initial placement of 500 cy of sediment which would then be monitored and replenished at least every five years. However, the total amount of sediment placed and the frequency of replenishment would be determined from these studies and used to update the future Sediment Augmentation Plan that implements the Sediment Augmentation Program with the TWG. Implementation of the Sediment Augmentation Program would then continue with oversight by the AMT through the Project and FAHCE AMP.

Response to Comment A2-30

Section 2.6.3, *Sediment Augmentation Program*, states that Valley Water would collect the data needed and conduct the necessary analysis to work collaboratively with the AMT, to adaptively manage appropriate changes to initially prescribed sediment volume, composition, placement locations, and frequency of sediment augmentation to improve spawning gravel habitat and geomorphic conditions without increasing flood risk or damage to infrastructure, to contribute to meeting the measurable goals and objectives of the Project and FAHCE AMP. The Sediment Augmentation Program as described in Section 2.6.3 of the Final EIR would begin following completion of ADSRP construction in coordination with the AMT (including NMFS). Valley Water would conduct annual monitoring and evaluation of monitoring data under the Project and FAHCE AMP to determine how much and the quality of suitable steelhead spawning and rearing habitat remains within the CWMZ. Valley Water would then coordinate with the AMT (including NMFS) regarding the program parameters when monitoring results indicate habitat suitability improvements are needed and can be attained through adaptive management actions. This work would be implemented in the long term (replenishment scheduled for up to 20 years) as described in Final EIR Section 2.6.3, subject to the Project and FAHCE AMP, and the FAHCE *Settlement Agreement*.

Response to Comment A2-31

As discussed in Master Response 2, the purpose of the EIR is to discuss the impact of a proposed project on the existing environmental baseline conditions. The Existing Conditions (post-FOCP) Baseline (Section 3.0.2.1) was used to determine impacts that may occur during ADSRP construction, and habitat restoration measures to minimize and offset those effects. The construction phase Live Oak Restoration Reach Maintenance CM, together with the implementation and long term adaptive management of the Ogier Ponds CM, the Phase 2 Coyote Percolation Dam CM, and the Sediment Augmentation Program, as well as the development, implementation and long-term adaptive management of the Post-Construction Operations CM and Geomorphic Flows Plan combine not only to avoid and minimize the adverse effects of ADSRP, but to provide long-term benefits. For the reasons described in Final EIR Section 3.4.4, under Impact FR-1a (Central California Coast Steelhead), these CMs and other Project components offset the effects of the ADSRP on steelhead and its habitat within Coyote Creek and provide long-term benefits for the steelhead through increased acreage and enhanced complexity and primary biological features of steelhead rearing and juvenile habitat, together with increased fish passage opportunity and enhanced flows to support both in- and out-migration of steelhead. Although the presence of Anderson Dam would continue and may intercept and prevent conveyance of large woody debris to downstream reaches, the comparison of the reach of Coyote Creek to historical conditions of no dam present to pre-dam

conditions is not appropriate. Further, the proposed amount of large wood structure placement included at the Live Oak Restoration Reach and Ogier Ponds CM Project site, and long term adaptive management of those sites, would improve steelhead habitat conditions; therefore the technical evaluation set forth in Final EIR Appendix F (Biological Resources – Fisheries Technical Appendix) indicates that the following statement in the comment cites an inapplicable historical baseline and is inaccurate based on Project improvements and benefits to steelhead habitat within Coyote Creek: “The proposed amount of LWD placement included at the Live Oak Restoration site and Ogier Ponds Restoration site is insufficient to address impacts from rebuilding the dam, which will affect additional reaches of Coyote Creek and persist for as long as Anderson Dam is in place.” For the reasons described in Master Response 2, the construction phase of ADSRP would not result in significant adverse impacts on aquatic species or habitats compared to the existing conditions baseline. The impacts of retrofitting the existing dam on aquatic habitat complexity and channel processes are sufficiently described in Section 3.4.4 of the Final EIR.

Response to Comment A2-32

See Response to Comment A2-31. In addition, as described in Section 2.6.5, *Maintenance Activities at the Live Oak Restoration Reach*, of the Final EIR, during Project construction, the Live Oak Restoration Reach habitat would be monitored and maintained to assure continuing fisheries benefits including the placement of additional woody debris structures. As described in Section 2.9.4, *Sediment Augmentation Program Operations*, of the Final EIR, post-construction adaptive management of the Live Oak Restoration Reach and Ogier Ponds would occur in conjunction with the Sediment Augmentation Program and would involve monitoring and maintenance to assure continuing fisheries benefits including the potential placement of additional woody debris. Section 2.6.3, *Sediment Augmentation Program*, states that Valley Water would collect the data needed and conduct the necessary analysis to work collaboratively with the AMT to improve habitat in these reaches in accordance with the measurable objectives of the Project and FAHCE AMP. Valley Water has committed to measurable objectives under the Project and FAHCE AMP which are designed to assure the long-term management and effectiveness of CMs to benefit steelhead and Chinook salmon (see Final EIR Section 2.10, *Project and FAHCE Adaptive Management Program*). This would include the CMs, Live Oak Restoration Reach Project and the Ogier Ponds CM, that include placement of large wood structures to create or enhance salmonid habitat.

Please see Response to Comment A2-98 for more information on reservoir interception of large wood debris and long-term large woody debris monitoring.

Response to Comment A2-33

Support by NMFS for the multiple benefits of the Ogier Pond CM is appreciated. Valley Water intends to continue to engage with NMFS during the design process and integrate the comments provided by NMFS and other resource agencies during technical assistance (e.g., two site visits and several technical working group meetings). The Ogier Pond CM is an extensive construction project, and an appropriately sized staging area is required for equipment, and especially to stockpile materials for substantial fill. Valley Water will continue to consider reducing the staging area to increase the floodplain restoration footprint, contingent on ongoing data collection needed to perform modeling and design for these features. To confirm whether more of the staging and stockpiling area can be incorporated into the connected floodplain and

still result in seasonally wetted area as part of the final Ogier Ponds CM design, and, if so, how much, would require additional information and modeling, including collection of field data on water quality, hydrology, soil, and biological conditions at the proposed staging and stockpile area.

This design change would be a minor variation of the Ogier CM that would not substantially increase avoidance, minimization or offset of the ADSRP's adverse impacts.

Response to Comment A2-34

Valley Water does not believe that screening imported water is necessary or practical for the reasons explained below.

Introduction of non-native species as a result of imported water releases during and post-construction would not be greater than releases during Pre-FERC Order Baseline conditions; these releases would simply be moved under certain circumstances to occur downstream of the CWMZ. The water used for construction flows and Post-construction Operations comprises water from similar sources (i.e., local water and Central Valley Project water), as occurred under the Pre-FERC Order Baseline. As noted in Master Response 2, the ability to release imported water from a new location downstream of the CWMZ as a result of FOCF construction of the CVPE would actually reduce imported water and related non-native invasive species introduced into the CWMZ as compared to Pre-FERC Order conditions, and following completion of construction would only occur in dryback conditions when introduction of water would help protect groundwater recharge and instream flows needed by species dependent on flow and groundwater dependent habitats.

Following completion of Seismic Retrofit construction, changes in-post-construction releases would benefit native species and disadvantage non-native species. Many of the non-native species currently in Anderson Reservoir are warm-water adapted species, and generally occur within the shallower, warm-water portions of the reservoir. The release of water from Anderson Reservoir through newly constructed low-level outlets would result in lower temperature releases than occur under Pre-FERC Order or Future baselines and may reduce the abundance of non-native species entering the CWMZ. With the increased use of local water and more common use of a lower intake portals that are deeper within the cold water pool and can draw colder water for releases under the Post-Construction Operations, the temperatures of releases in summer would be lower in particular during July-September. This should further improve conditions for steelhead through the CWMZ, while temperature conditions for optimal growth of non-native species such as bass would be limited by these operational practices.

In addition, disconnection from the ponds and restoration of the riparian channel as a part of the Ogier Ponds CM would reduce temperatures in Coyote Creek downstream of the ponds and native fish would no longer need to move through the slow-moving, warm water ponds that characterize existing baseline conditions and expose native fish to predation. Also, revised operations of Coyote Percolation Dam with the use of a bladder dam would also reduce the occurrence of the slow-water warm-pond that provides habitat for non-native species at that location.

Further, post-construction Conservation Measures described in Final EIR Section 2.9 and increased post-construction outmigration flows proposed by the Project would improve refuge and migration habitat for native species to avoid predators. The Project's post-construction

operations would also provide winter base flows, spring pulse flows, summer base flows, and flow ramping to improve habitat for native species as described in Section 2.8.3, assuring improvement in steelhead habitat conditions as a result of ADSRP.

Also, it should be noted that the predatory fish found using the same rearing habitat as juvenile steelhead during juvenile monitoring studies were often small and would not pose a threat to juvenile steelhead. Based on sampling, it appears that habitat preference of larger predatory fish does not overlap with the fast water feeding habitat preferred by juvenile steelhead during summer rearing (Valley Water, unpublished data).

Overall, post-construction operations would reduce the impact of non-native species on steelhead in comparison to baseline conditions.

With respect to construction phase releases of imported water, as described in Table 2-1 in Section 2.4 of the Final EIR, the Invasive Species Monitoring and Control Plan was prepared for the FOCF and would continue to be implemented through construction of the Project to further reduce the interaction between native and non-native species, as acknowledged by the comment. This plan would address non-native species in the Project area resulting from any source, including imported water discharges

Further, Final EIR Section 3.4.4, page 3.4-94 has been revised to incorporate habitat conditions in the context of presence of non-native predatory fish species and has included this text:

Although non-native species could be introduced as a result of imported water releases during construction, imported water releases that may contain non-native species would not be greater than releases compared with the Pre-FERC Order Baseline. In addition, the ability to release imported water from a new location downstream of the CWMZ as a result of FOCF construction of the Cross Valley pipeline extension would reduce imported water and related non-native invasive species introduced into the FCWMZ as compared to Pre-FERC Order conditions.

Response to Comment A2-35

All steelhead within the FCWMZ during FOCF construction and prior to the operation of chillers are subject to potential impacts of elevated temperatures from water bypassed through the reservoir and released at deadpool conditions during the summer rearing season (May to September). As explained in Master Response 2, these construction impacts on water temperatures in the absence of chillers are impacts of FOCF implementation, and would not be attributable to the Project, but have been added to and considered in the revised cumulative effects analysis of the EIR (see Section 3.4.5, *Cumulative Impacts*). The EIR assumes that chillers are already installed and are operating at the start of Project construction, and this assumption is reasonable based on current FOCF plans. Despite the delay in the delivery of the chillers resulting from supply chain issues beyond Valley Water's control, *O. mykiss* have persisted at various age classes and in good body condition in Coyote Creek for three years of FOCF construction in the absence of chillers, including during extreme drought conditions characterizing 2 of those 3 years of construction, as described in more detail in this response below. For this and the other reasons discussed in Final EIR Section 3.4.5, the cumulative effects of FOCF and ADSRP are less than significant despite the delay in deployment of the chillers, after taking into account the implementation of all FOCF Avoidance and Minimization Measures and

the Live Oak Restoration Reach incorporated into FOCp, and all VHP conditions and AMMs, BMPs, and CMs incorporated into FOCp.

Nevertheless, having the chillers in place prior to commencement of ADSRP construction would provide more favorable construction phase temperatures for spawning, incubating and rearing steelhead. Valley Water has secured commitments to ensure implementation of electric chillers as a part of the FOCp and prior to ADSRP to reduce the temperature of up to 10 cfs of imported water prior to releasing the imported water into the FCWMZ in Coyote Creek. Imported water will be routed through electric chillers before being released to Coyote Creek via the Coyote Discharge Line. Multiple chillers will be used, with redundancies, to prevent failure. When chillers are operational, no impacts to steelhead are anticipated as a result of water temperature, relative to Pre-FERC Order baseline conditions. In addition, once the CVPE is operational as a result of the FOCp and imported water can be released downstream of the Ogier Ponds, the volume of imported water released into the FCWMZ in Coyote Creek through the Coyote Discharge Line can be reduced and chilled even more effectively further decreasing the probability of temperature impacts during the end of FOCp as well as during ADSRP.

The comment asserts without technical support that three summers without this Conservation Measure has caused significant harm as a result of the FOCp to the steelhead population in Coyote Creek, but construction monitoring does not support this conclusion. Empirical data collected during and after temperature impacts has led Valley Water to conclude that, although some adverse impacts were likely given temperature thresholds for steelhead, *O. mykiss* have persisted in the FCWMZ. Currently, during FOCp, *O. mykiss* continue to persist at densities similar to Pre-FERC Order Baseline and data show they are reproducing, growing, and are in good body condition within the FCWMZ (Valley Water 2021b, 2022a, 2023b, 2024b) despite extreme drought conditions that led to high summer temperatures suggesting that there has not been significant harm to the steelhead population from summer temperatures during FOCp despite the delay in deployment of the chillers.

Prior to chiller installation, during FOCp, increased water temperatures were predicted to result in physiological stress and/or mortality of some juveniles rearing within the FCWMZ downstream of Anderson Dam. Therefore, based on model forecasting and real time monitoring, a decision to perform a fish rescue and relocation has been implemented as part of FOCp, and would continue to be implemented as a part of ADSRP when directed by the TWG. Based on projected temperatures in 2020 and 2021, agency-directed fish relocations were performed throughout the FCWMZ in both years. In August 2020, the majority of *O. mykiss* were relocated to Upper Penitencia Creek. In June 2021, due to low flows in Coyote Creek and poor conditions in Upper Penitencia Creek, the TWG recommended Valley Water relocate *O. mykiss* greater than four inches to lower Coyote Creek where they could outmigrate or persist and leave small *O. mykiss* in place within the FCWMZ.

During summer 2021, a year of extreme drought, maximum weekly average temperature (MWAT) during the summer rearing period (May to September) was 74.7°F (23.7°C), considered near lethal for steelhead, directly downstream of the dam (COYO10). However, temperatures differ once local surface water from the reservoir mixes with imported water at the CDL approximately 1,300 ft downstream of the dam. In 2021, during the summer rearing period, once the local water and imported water mixed and traveled downstream to COYO9, an MWAT of 71.78°F (22.1°C), considered suboptimal for steelhead, was recorded. Despite leaving small *O. mykiss* in place during high temperatures, particularly in July, electrofishing efforts in October

2021 documented both YOY and age 1+ *O. mykiss* persisting within the FCWMZ at a density higher than pre-Project conditions (Valley Water 2021b).

During summer 2022, high water temperatures occurred in the second year of extreme drought. The highest recorded MWAT during the summer rearing period (May to September) in the FCWMZ was 76.3°F (24.6°C), considered near lethal to lethal for steelhead, directly downstream of the dam at COYO10 (Valley Water 2022a). However, like in 2021, temperatures were reduced once the local reservoir releases mixed with imported water at the CDL and traveled downstream where an MWAT of 71.8°F (22.1°C), considered suboptimal for steelhead, at COYO9 was recorded (Valley Water 2022a). The TWG was notified, and the TWG directed VW that no fish relocations were necessary during this period. During the juvenile rearing survey effort of 2022 between Ogier Ponds and Anderson Dam, juvenile *O. mykiss* of multiple year classes were captured in the FCWMZ in summer (June) and fall (November) of 2022 (Valley Water 2023b). In addition, recaptures of individually marked fish demonstrated high growth rates from fall 2021 to summer 2022 (Valley Water 2023b).

It should be noted that 2021 and 2022 summer rearing seasons occurred during extreme drought, and the period from 2020 to 2022 is currently the driest three-year period on record in California; therefore, these years likely indicate the worst case conditions in the watershed. In 2023, conditions changed throughout California bringing record-setting precipitation in some areas. The abundant rainfall led to an increase in storage in San Luis Reservoir, which resulted in cooler temperatures of the imported water being released to Coyote Creek. The highest recorded MWAT during the summer rearing period (May to September) was 76.3°F (24.6°C), considered near lethal to lethal for steelhead, right below the dam (COYO10). However, the highest recorded MWAT during the summer rearing period (May to September) in the middle of the FCWMZ (COYO9), where local reservoir water was mixed with imported water, was 67.5°F (19.7°C), considered suitable for steelhead. The TWG agreed that no fish relocations were necessary during this period. During the juvenile rearing survey effort of 2023 between Ogier Ponds and Anderson Dam, *O. mykiss* were captured in the FCWMZ in summer (July and August) and fall (October and November). Valley Water documented *O. mykiss* from multiple age classes. Also, juvenile densities were the same or higher than previous sampling efforts and the fish body condition analysis found the fish sampled in 2023 to be in good condition (Valley Water 2024b). Valley Water considers the conditions under FOCP to represent a worst-case scenario where back to back drought years were combined with a lack of chilled imported water. Yet, the 2023 monitoring results indicate that rearing conditions were suitable enough during this worst-case scenario in FOCP for *O. mykiss* to persist, reproduce, and grow with good body condition in the FCWMZ despite potential impacts from elevated temperatures during the prior years (Valley Water 2024b).

Further, as described in Section 3.4.5, the construction schedules for FOCP and the Project would not overlap, reducing the potential intensity of cumulative construction-related impacts. Also, the FOCP includes fish rescue and relocation, other AMMs, and a HMMP, designed to create and maintain the Live Oak Restoration Reach as fish habitat throughout ADSRP construction, to minimize and offset impacts on fish populations and habitats. Similarly, ADSRP includes construction phase fish rescue and relocation, other AMMs, and implementation of multiple CMs and Project components to restore steelhead habitat and reduce instream flow temperatures, including the Live Oak Restoration Reach Maintenance, North Channel Maintenance, Ogier Ponds CM, Phase 2 Coyote Percolation Dam CM, Post-Construction Operations improvements, and the Geomorphic Flows Plan. Therefore, Section 3.4.5 concludes

that despite the delay in deployment of the chillers, FOCP in-stream temperature impacts combined with ADSRP impacts, which would be minimized and offset by the deployment of chillers later than anticipated, but still as a part of FOCP, would not be cumulatively considerable.

Response to Comment A2-36

As described in Section ES.6, *Description of the Proposed Project*, Conservation Measures are defined in the EIR as Project components designed to avoid and minimize adverse environmental impacts and, in some cases, provide environmental benefits. Although certain Conservation Measures do not immediately provide benefits following the completion of the plan or study, these actions build a basis for future actions that would be implemented if and to the extent determined appropriate in coordination with the AMT during adaptive management pursuant to the Project and FAHCE AMP. The plans and studies therefore would eventually provide conservation benefits.

As described in Table 2-1 in the Final EIR, the Lower CWMZ Restoration Evaluation would evaluate habitat from Ogier Ponds to Metcalf Road to describe post-construction channel conditions and habitat suitability for steelhead (e.g., channel confinement, channel incision, floodplain condition, spawning gravel quality and deposition, water temperatures, flows, and passage). The Geomorphic Flows Plan would identify flow releases from Anderson Dam that would be integrated into Post-Construction Operations to provide additional support for biological features of steelhead critical habitat that are maintained by periodic high flows capable of inundating the floodplain, scouring substrate, mobilizing gravel, and supporting channel migration, as described in the high flows principles of the California Environmental Flows Framework (CEFWG 2021).

Similarly, the Coyote Creek Facilities Plan would evaluate alternatives to manage groundwater inflow from Coyote Creek and evaluate alternatives to isolate percolation ponds, quarry pits, and other structures from the active Coyote Creek channel in the vicinity of Metcalf Road to reestablish a free-flowing creek channel through this area, taking into account completion of ADSRP and its post-construction CMs, including Ogier Ponds, Sediment Augmentation Program, and the Phase 2 Coyote Percolation Dam design.

Of course, plans and studies are just one form of Conservation Measures, and as set forth in Final EIR Sections 2.4, 2.6, and 2.8, there are many Conservation Measures that directly maintain or enhance habitat conditions specifically for steelhead.

Response to Comment A2-37

For the reasons described in *Master Response 3 – VHP Reduction of Impacts to Less than Significant*, the VHP would provide the ESA, CESA, and NCCPA avoidance, minimization and mitigation, as well as any necessary take authorization for Covered Activities associated with the Project on VHP Covered Species under the jurisdiction of the USFWS and CDFW. Compliance with VHP conditions also contributes substantially to avoidance and minimization of impacts for purposes of CEQA review of the Project. As also described in Master Response 3 and Section 3.4.2.3, *Regional and Local Laws, Regulations, and Policies*, of the Final EIR, most, but not all of the Project activities are Covered Activities under the VHP and fish species are not Covered Species under the VHP. Section 2.4.2.3 of the Final EIR acknowledges that steelhead and other

fish species are not Covered Species in the VHP. Further, page 3.4-78 of the Final EIR states, “Several plant and animal species are covered by the VHP; however, no specific fish species are included in the VHP.” Because the VHP does not identify steelhead or any fish species as Covered Species, the ADSRP includes habitat specific Conservation Measures and mitigation measures to avoid minimize and compensate for impacts to fish.

For the reasons described further in Master Response 3, although there are no covered fish species in the VHP and the VHP habitat conservation strategy does not include measures targeting specific fish species, Final EIR Tables 3.4-7 and 3.4-8 list VHP conditions and AMMs applicable to fisheries resources that would reduce impacts to fish species and their habitat.

Response to Comment A2-38

The Temperature and Fish Monitoring Plan is not the only monitoring included in the EIR. Monitoring is detailed in Section 2.7.5, *Fisheries Monitoring*, on pages 2-105 through 2-109 of the Final EIR. Monitoring was developed in coordination with the TWG. Migration flow monitoring, migration studies, growth comparative studies, eDNA monitoring, VAKI adult monitoring, fish rescue and relocation, and spawning surveys are planned to effectively monitor water quality, steelhead migration, spawning, juvenile growth and survival, and smolt production.

Rotary screw traps and fyke traps are not necessary because Valley Water is implementing PIT tag studies to monitor outmigration. This method does not delay migration and minimizes trapping and handling impacts to individual fish.

The Project includes continuation of juvenile rearing monitoring, which involves extensive electrofishing twice a year as well as eDNA sampling. Also, in collaboration with the TWG, the monitoring plans have been updated to increase the number of geographic locations and sampling sites for electrofishing and expanded eDNA.

Post construction fisheries monitoring is detailed throughout the Final EIR (e.g., Section 3.7.3.6) and aims to build on existing Valley Water methods for water quality, habitat, and fish monitoring. These monitoring plans were developed with coordination from the TWG and the AMT and would continue to be implemented as part of the Project and FAHCE AMP.

Response to Comment A2-39

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A2-40

The Draft EIR has been revised to change “5-mile stretch” to “approximately 6 5-mile stretch” in response to this comment and to be consistent with the FAHCE Settlement Agreement. This revision has also been applied globally to all references to the length of the full cold water management zone.

Response to Comment A2-41

In response to this comment, Section 2.2.2, *Project Area – Anderson Dam and Reservoir, Coyote*

Creek, Ogier Ponds, and Coyote Percolation Pond, on page 2-6 of the Final EIR has been revised as follows:

~~Within this~~ This stretch of Coyote Creek encompasses there is the majority of the potential for effects to occur to ESA-listed steelhead (*O. mykiss*) rearing and spawning habitat in Coyote Creek. It is also the stretch where adverse impacts from the Project on fisheries resources would be most concentrated and where the majority of the conservation measures occur. However, there are also impacts and conservation measures downstream of this stretch, within the fisheries resources study area that are addressed throughout the impact analysis as well as a result of Anderson Dam operations.

Response to Comment A2-42

In response to this comment, Section 2.2.2 on page 2-6 of the Final EIR has been revised as follows:

As such, the current functional cold water management zone (FCWMZ) effectively ends at the upstream end of Ogier Ponds, 4 miles downstream from Anderson Dam. In this EIR, the FCWMZ refers to the reach between Anderson Dam and Ogier Ponds, and is the area that is currently contains the most known suitable spawning and rearing habitat for *O. mykiss*.

Response to Comment A2-43

In response to this comment, Section 3.4.1.1, Fisheries Resources and Related Aquatic Habitat, on page 3.4-16 of the Final EIR has been edited to provide additional description of historical channel conditions within the FCWMZ:

Additionally, within the present-day FCWMZ, between the dam and Ogier Ponds, there was a mix of sycamore alluvial woodland, with 'occasional short reaches of continuous riparian forest' including cottonwoods and willows (SFEI 2006). Coyote Creek historically transitioned downstream from present-day Anderson Dam from a perennial to intermittent creek, and from an oak-dominant to sycamore-dominant plant community. It was also a meandering and narrower channel directly downstream of Anderson Dam before braiding in downstream segments (SFEI 2006). The present-day FCWMZ has comparatively higher riparian tree cover compared to downstream reaches (SFEI 2006). SFEI (2006) indicates that these sycamore alluvial woodland reaches, characterized by shallow, braided channels and variable flow, provide a unique habitat beneficial to native species, including fish (SFEI 2006).

Response to Comment A2-44

In response to this comment, the Fish Migration column in Table 3.4-5 (Aquatic Life Beneficial Uses in the Study Area defined by the San Francisco Bay Regional Water Quality Control Board Basin Plan 2019) on page 3.4-45 of the Final EIR has been revised to indicate that the Basin Plan identifies fish migration as a beneficial use of Tidal Coyote Creek (Coyote Slough) (only relevant portions of the revised table shown below):

Waterbody	Fish Migration
Anderson Reservoir	N/A
Coyote Creek (nontidal)	X
Upper Penitencia Creek	X
Tidal Coyote Creek Coyote Slough)	X N/A
Alviso Slough	X
San Francisco Bay	X

Response to Comment A2-45

See Response to Comments A2-15 through A2-18.

Response to Comment A2-46

See Response to Comments A2-15 through A2-18.

Response to Comment A2-47

See Response to Comments A2-15 through A2-18.

Response to Comment A2-48

As described in Final EIR Section 2.7.4.2, Valley Water’s Wetland and Riparian Habitat Dryback Monitoring Plan prepared for the FOC (Valley Water 2020a) would continue to be implemented throughout Project construction. Impacts to steelhead related to dryback, low flows, and high water temperature during construction are analyzed in Impact FR-1a, discussed in Section 3.4.4. In addition, please see Response to Comment A2-35 for discussion of impacts to steelhead and habitat during dryback during FOC construction.

Response to Comment A2-49

Master Response 2 and Response to Comment A2-20 explains why impacts to steelhead movement, migration, and habitat following ADSRP construction are not adversely significant. Additionally, the technical evaluation in EIR Appendix F and Section 3.4.4 (Impact FR-1a) do not support the assertion that impacts to CCC steelhead would be significant.

As discussed in Master Response 2, adverse effects on a few individuals of a special-status species do not automatically mean that the impact is significant under CEQA. For the reasons described in Section 3.4.4 (Impact FR-1a), taking into account the size of the Coyote Creek Watershed population under Pre-FERC Order and Existing Conditions, the direct adverse effects of the Project associated with suspended sediment increases and fish rescue and relocation may involve injury or mortality to a small number of individual fish or occasional precipitation events that lower egg to fry survival comprising a small portion of the Coyote Creek Watershed steelhead population, but are not expected to result in a “substantial adverse effect” on that population, nor the larger DPS of the species. In this regard, it is important to note that as discussed in Master Response 2, under CEQA, significance of effects is properly determined after

consideration of all proposed Conservation Measures and project components that would avoid, minimize and offset adverse effects to natural resources, not prior to consideration of environmental protection measures incorporated into a project.

By retaining the ability during construction to release water through Anderson Dam using normal operation of Coyote Reservoir and bypassing flows through Anderson Reservoir to Coyote Creek, and augmenting releases to Coyote Creek via the Coyote Discharge Line, Valley Water would minimize the potential for drying of Coyote Creek due to drawdown of Anderson Reservoir and associated reductions in flows to Coyote Creek during construction. These measures are expected to provide sufficient surface water flow and groundwater recharge such that there would not be a significant adverse hydrological change from Pre-FERC Order Baseline conditions. Additionally, the imported water and local reservoir flows cooled through the chillers and then released from the Coyote Discharge Line would minimize increases in water temperature that may occur in Anderson Reservoir's deadpool during construction, and the larger outlet capacity following FOCF construction of the ADTP would allow for greater streamflow fluctuations in Coyote Creek and more closely approximate an unimpaired hydrograph.

Due to the implementation of these CMs and other environmental measures and Project components, the analysis for EIR Impact FR1a concludes that the direct adverse effects of ADSRP construction on individual steelhead within Coyote Creek would be limited to effects resulting from fish rescue and relocation on a small number of individual fish. Fish rescue and relocation is only proposed to occur in coordination with the TWG and in response to real time flow, temperature, and water quality data. Fish rescue and relocation is initiated when the TWG determines based on that real-time information that harm to individual steelhead occupying the Creek is imminent. As generally described in the EIR discussion under Impact FR-1a, the limited injury and mortality to a small number of individual steelhead cited in the comment and anticipated to occur during ADSRP construction would not adversely affect the Coyote Creek Watershed steelhead population even though the population in the Pre-FERC Order Baseline condition was affected by historical (i.e., pre-ESA and pre-Clean Water Act) habitat modifications.

More specifically, the number of steelhead individuals anticipated to be directly impacted cumulatively by FOCF and ADSRP construction phase drawdown and reductions in flow releases are not expected to result mortality of more than 5 percent of the subset of individual steelhead that are rescued and relocated. (Valley Water 2024c; see Section 6.2.1.5). Further, while the ADSRP construction phase drawdown and reduced flow releases are expected to require fish relocation that may adversely affect up to 5 percent of individual steelhead in the Coyote Creek watershed, those effects are expected to be limited to capture stress associated with the Rescue and Relocation Plan. Rescue and relocation prevent lethal take of captured individuals from stranding, high water temperatures, and/or poor water quality and on balance helps to assure that the effects on the baseline steelhead population within the Coyote Creek Watershed not do not adversely affect the watershed population, but importantly are not nearly substantial enough to significantly adversely affect the regional steelhead population or DPS.

Construction phase fish monitoring conducted as a part of FOCF demonstrates to date that construction phase CMs, including provision of construction flows from Coyote Reservoir and the Coyote Discharge Line together with implementation of the chillers and fish rescue and relocation, are sufficient to allow steelhead individuals to persist within Coyote Creek in

numbers and densities like those that occurred in Pre-FERC Order Baseline conditions. See Response to Comment A2-35 for a description of FOCP construction phase fish monitoring data. The FOCP data and information that indicates that the Coyote Creek steelhead population numbers are persisting despite implementation of the FOCP in response to the February 2020 FERC Order supports the conclusion that population effects at the watershed level are not likely to be significant and adverse, and are even less likely to be significant at the regional population and DPS levels. Future monitoring may show better survival rates because additional FOCP AMMs will have been implemented, including additional flow releases from the CVPE when completed and implementation of the chillers. Please also see Response to Comment A2-53 for further discussion of reasons that fish rescue and relocation during dewatering is not a significant impact.

Long-term, the steelhead habitat improvements achieved as a result of Project CMs (including implementation of Ogier Ponds, the Sediment Augmentation Program, Live Oak Restoration Reach and North Channel maintenance, Post-Construction Operations, the Phase 2 Coyote Percolation Dam, the Geomorphic Flows Plan, and ongoing adaptive management of the CWMZ pursuant to the Project and FAHCE AMP) would benefit both the regional Coyote Creek Watershed steelhead population and the DPS for the reasons described in Final EIR Impact FR-1a, and summarized in Response to Comment A2-52 (among others).

Response to Comment A2-50

As described in Master Response 2, flow would continue to move from upstream of the dam to downstream of the dam during construction and post-construction, so exclusion from downstream habitat areas for extended duration (years) as the commenter asserts is not an accurate statement. Fish would continue to pass from upstream to downstream through the dam. ADSRP provides CMs that, when considered all together, improve habitat conditions for all life stages of steelhead.

Under CEQA, current environmental conditions should be used as the baseline for impact analysis, rather than a historical condition. The Pre-FERC Order Baseline considers the species and habitat conditions that existed immediately prior to the FERC Order. Commenter assertions that the steelhead impact analysis must use a historical comparison point - including an unmodified watershed condition that existed prior to the construction of Anderson Dam in 1950 and that continued impacts from the dam being in place must be included as Project impacts - are not substantiated by the case law.

Response to Comment A2-51

Valley Water disagrees with the commenter's assertion that impacts of the Project to CCC steelhead post-construction would be significant. All of the impacts listed in this comment are ongoing impacts of an existing dam. As discussed in Master Response 2, under CEQA, current environmental conditions should be used as the baseline for impact analysis, rather than a historical condition. The Pre-FERC Order Baseline considers the species and habitat conditions that existed immediately prior to the FERC Order. Commenter assertions that the steelhead impact analysis must use a historical comparison point— including an unmodified watershed condition that existed prior to the construction of Anderson Dam in 1950—and that continued impacts from the dam being in place must be included as Project impacts - are incorrect under CEQA and not substantiated by the CEQA Guidelines or case law.

However, many of the CM designs were informed by and developed with an understanding of the likely historical impacts of the dam to ensure that adverse impacts of the actual Project are offset, leaving no question that the steelhead population would benefit from the Project in the long term. FAHCE and FAHCE-Plus Modified flow operations balance water supply demands with a hydrograph that contains all the components needed to support all the life history stages of native fish (particularly listed steelhead) which counteracts historical altered flows. The Sediment Augmentation Program, Maintenance of Live Oak Restoration Reach, Ogier Ponds CM, and the Geomorphic Flows Plan counteract historical fine sediment deposition, historical limitations of gravel and large woody debris transport and recruitment, and historical decreases in duration of floodplain and bar inundation. The multi-level intake structure, the FAHCE or FAHCE-Plus Modified flow operations, and the Ogier Ponds CM counteract historical water temperature alterations. The Ogier Ponds CM counteracts the historical ponding of riverine reaches. Therefore, all the historical impacts indicated by the commenter are addressed, mainly as a result of a federal ESA Section 7 consultation for steelhead, even though they are not required to be addressed through CEQA.

Response to Comment A2-52

As discussed in Master Response 2, under CEQA, current environmental conditions should be used as the baseline for impact analysis, rather than a theoretical historical condition. Accordingly, the impacts of the ADSRP are to be evaluated and minimized taking into account that a dam has been present under conditions that have existed since 1950, and the current status of aquatic resources as a result of that dam. As concluded in Final EIR Appendix F and Section 3.4.4 (Impact FR-1a), ADSRP improves the conditions within the Coyote Creek Watershed as compared to the Pre-FERC Order, Existing Conditions, and Future Conditions baselines. The Pre-FERC Order Baseline considers the species and habitat conditions related to Coyote Creek instream flows that existed immediately prior to the FERC Order and related reservoir drawdown and reductions in dry weather flow releases. The Existing Conditions Baseline considers Coyote Creek channel, geomorphic, facilities and vegetative habitat conditions existing following FOCF related work. The Future Baseline takes into account species and habitat conditions related to Coyote Creek instream flows that would occur absent ADSRP, if dam operations and flow releases were to continue unmodified. Using these comparisons, impacts to steelhead and steelhead critical habitat were determined to be less than significant.

In addition, ADSRP impacts together with impacts of FOCF have been evaluated in the EIR and, after implementation of all FOCF AMMs and habitat restoration (Live Oak Restoration Reach and North Channel), as well as all ADSRP fisheries related VHP conditions and AMMs, BMPs and ADSRP CMs, and other Project components designed to offset ADSRP adverse effects on steelhead and to improve steelhead habitat conditions within the watershed. Taking into account both FOCF and ADSRP and all these environmental measures and Project components in advance of making a significance determination, the EIR Impact FR 1a determines both ADSRP and cumulative impacts on the steelhead population, steelhead habitat and steelhead movement and migration within the watershed, as well as the region and DPS are less than significant based on benefits to steelhead and substantial improvements to suitable habitat for steelhead and other fisheries species in Coyote Creek, as described in Master Response 2. All FOCF and ADSRP CMs were developed with the TWG which includes resources agencies. Habitat benefits associated with the Live Oak Restoration Reach and Maintenance of the North Channel Reach CMs would be present in Coyote Creek at Project initiation and would be maintained and

enhanced through Year 10. As described in Section 2.6.1, Ogier Ponds CM construction would take 3 years (Project calendar Years 6 through 8), with steelhead habitat benefits present as early as the end of Year 6 (i.e., pools being filled or partially filled by this time). As described in Section 2.6.4, the Phase 2 Coyote Percolation Dam CM would occur during Project Year 1, with steelhead habitat benefits (i.e., improved migration habitat) by Year 1. As described in Section ES.6.2.6, the Live Oak Restoration Reach CM would occur during FOCF, with steelhead habitat benefits (i.e., improved spawning and rearing habitat in the Live Oak reach) by the Project initiation and the enhanced habitat would be maintained throughout the Project. As described in Final EIR Section 2.4 (page 2-14), Section 2.6.3 (pages 2-90 through 2-94), and Section 2.9.1 (page 2-125), the implementation of the Geomorphic Flows Plan, Sediment Augmentation Program, and the Post-Construction CM Operations would begin upon completion of the Project and continue through adaptive management pursuant to the Project and FAHCE AMP.

Following construction, ongoing compliance, validation and effectiveness monitoring would confirm the functionality and success of CMs in attaining the measurable goals and objectives of the Project and FAHCE AMP, and Project-specific adaptive management measures would be deployed as determined in coordination with the AMT.

The ADSRP CMs specifically include measures to improve geomorphic conditions within Coyote Creek, including limited sediment transport, channel incision and limited floodplain establishment and limited bar inundation. As described in Final EIR Section 3.4.4 on pages 3.4-115 and 3.4-116, the implementation and long term adaptive management of the Sediment Augmentation Program would restore coarse sediments and improve steelhead habitat conditions within Coyote Creek notwithstanding ongoing operation of the dam. In addition, as described in Final EIR Section 3.4.4 on pages 3.4-95 through 3.4-98, the Ogier Ponds CM, particularly in combination with the Live Oak Restoration Reach and North Channel maintenance, would create a stable perennial creek that bypasses the slow moving and warm ponds, as well as related aquatic and riparian habitat and a wider, stable floodplain with side channel habitat and freshwater and seasonal wetlands. In addition, as described in Final EIR Section 3.4.4 on page 3.4-191 and Response to Comments A2-26, A2-27, and A2-36, the Geomorphic Flows Plan would provide long term benefits for Coyote Creek geomorphic functions and services based upon information assessing instream habitat and flow conditions collected after completion of the seismic retrofit, completion of the Ogier Ponds CM, and implementation of post-construction dam operations. Valley Water has committed to work collaboratively with the TWG to develop a Geomorphic Flows Plan that meets the impact minimization criteria for floodplain and bars inundation flows. As such, not only are ADSRP adverse impacts to geomorphic conditions to Coyote Creek avoided and minimized, geomorphic processes would also be improved as compared to baseline conditions by the CMs.

The comment references a September 2023 Mark Gard memo that was a discussion of appropriate floodplain inundation goals for the Ogier Pond CM to address effects of long-term post-construction operations. As explained above, multiple Conservation Measures that have been designed in extensive collaboration with NMFS and the TWG sufficiently address the adverse effects of the Project on geomorphic processes and those processes would improve and floodplain inundation would improve within Coyote Creek as a result of the Project. Consequently, the elimination of all open water ponds within the existing Ogier ponds complex to create a wider floodplain as suggested by the Mark Gard memo, at the expense of open water habitat and greater grading-related adverse construction air quality emissions, aesthetic and recreation impacts is not warranted under CEQA or biologically to address ADSRP adverse

effects. Please see Response to Comments A1-28 and A4-10 for a discussion of the adverse environmental effects and other issues associated with the Ogier Ponds alternative proposed by CDFW.

Considering all of these Project CMs and components, the analysis of Project adverse effects, and the long term benefits to the CCC steelhead DPS, the species are accurately represented in the Draft EIR. Draft EIR Appendix F and Draft EIR Section 3.4.4 (Impact FR-1a) explain the technical evidence supporting the conclusions that construction phase adverse impacts to the steelhead DPS are less than significant as a result of the implementation of construction phase CMs, BMPs, VHP conditions, and other project components. Overall, the Project provides post-construction benefits to the steelhead watershed population and DPS based on substantial enhancements to steelhead habitat within Coyote Creek.

Further, the role of Coyote Creek in the CCC steelhead DPS and the importance of the various physical and biological features of habitat for all steelhead life stages in Coyote Creek described in Volume IV of the NMFS 2016 Multispecies Recovery Plan (NMFS 2016) have been adequately described in Final EIR Section 3.4.1, *Environmental Setting*. The importance of sediment (Section 3.4.1, pages 3.4-11 and 3.4-12), fish passage (Section 3.4.1, pages 3.4-10, 3.4-11, and 3.4-15), water quality (Section 3.4.1, pages 3.4-10 through 3.4-16), water flows (Section 3.4.1, page 3.4-15), and habitat complexity (Section 3.4.1, pages 3.4-12 and 3.4-13) for various life stages of steelhead are described in Section 3.4.1 and the associated pages listed here.

In the context of the DPS, Coyote Creek is a small portion of steelhead critical habitat (3.3 percent) relative to all the critical habitat available for CCC steelhead. Since 96.7 percent of the critical habitat in the DPS is outside of Coyote Creek, metapopulation dynamics are more likely to be driven by conditions and the contributions of several much larger watersheds within the CCC DPS, including the Russian River and the Napa River watersheds as well as ocean conditions. That said, short-term effects, as well as long-term benefits to the Coyote Creek population, which NMFS has designated as a “core” population for the DPS, would positively influence the viability of the CCC steelhead DPS.

Collectively, the steelhead population is likely to benefit from increased adult migration opportunities, increased access to spawning habitat, increased quantity and quality of spawning habitat, increased quantity and quality of rearing habitat, and increased smolt migration opportunities. The post-construction operations under the Project would provide substantially improved opportunities for adult upstream migration. This includes more days per year of migration, greater temporal distribution, and assurance of migration opportunities in all years. For a DPS adapted to opportunistically and quickly migrate when conditions are suitable, increased temporal distribution of migration opportunities would ensure that adults may migrate and spawn anytime between January and April depending on the climatic conditions that vary annually, increasing the resiliency of the population to climate change and other disturbances. Overall, these increases would provide sufficient migration opportunities to support the Coyote Creek population, since during all years there would be migration opportunities far exceeding what occurs under existing conditions. The NMFS Recovery Plan (NMFS 2016a) CAP analysis concluded Coyote Creek was in “fair or better” condition for adult migration flows under existing conditions, and under the ADSRP migration opportunities for adults in all years is a substantial improvement over existing conditions, and therefore is sufficient to protect and enhance steelhead and their critical habitat.

The ADSRP is anticipated to provide the conditions needed for the population to recover from FOCF and ADSRP impacts and to result in a long-term increase in abundance of the population relative to baseline conditions. Increases in habitat and abundance will make the DPS more viable, resilient, and less prone to extinction. Therefore, the Project would improve the DPS relative to baseline conditions, is not likely to jeopardize the continued existence of CCC steelhead, would improve the viability of the CCC DPS, and support the recovery of the DPS.

Response to Comment A2-53

Commenters assert that rescue and relocation of steelhead during localized dewatering would have significant impacts on individual fish. Fish rescue during localized dewatering is intended to trade short-term adverse impacts to individual fish for long-term conservation and/or benefit to the Coyote Creek Watershed steelhead population (Final EIR page 3.4-96).

As described in Master Response 2, the fish rescue and relocation BMP trades a low level of individual injury or mortality of steelhead during localized dewatering for long-term population conservation in the context of Seismic Retrofit construction activities or for population benefits in the context of habitat restoration Project components (Ogier Pond CM, Maintenance of Spawning Gravel and Rearing Habitat Improvements in Live Oak Restoration Reach, and the Phase 2 Coyote Percolation Dam CM). This risk of injury and mortality is considered to be very low (<2 percent; Final EIR page 3.4-96) with the implementation of a dewatering plan that is prepared by a fisheries expert and would be approved by the TWG. The EIR conclusions assume that the TWG would not approve any dewatering plans that would cause significant impacts on the watershed-wide steelhead population. Because BMPs, VHP conditions, and Conservation Measures are components of the Project proposed by Valley Water, CEQA requires analysis of BMPs, VHP conditions, and AMM included in the Project description as part of the Project and require a determination of significance. As discussed in Master Response 2, adverse impacts on a few individuals of a special-status species do not automatically mean that the impact is significant under CEQA.

Response to Comment A2-54

See Response to Comments A2-49, A2-50, A2-51, A2-52, and A2-53.

Response to Comment A2-55

There is no empirical scientific evidence that a substantial adverse impact on the steelhead population is likely from temporary construction phase effects, and a hydroacoustic analysis is therefore not necessary. As explained in more detail Master Response 2, injury and mortality of individual steelhead are unlikely to occur because the noise and vibration study concluded that all noise and vibration impacts would occur in dewatered or upland areas from which fish are excluded and noise and vibration would likely attenuate before reaching underwater areas where steelhead could occur. Therefore, no significant adverse noise or vibration impacts are expected to result from the Project. In the unlikely event that noise or vibration effects would kill or injure an individual fish, that effect would not rise to a level of significance because the loss of individuals, which is avoided and minimized to the maximum extent possible, would not adversely affect the population of steelhead within Coyote Creek, a region within the greater DPS range.

Response to Comment A2-56

Regarding impacts to fish during relocation and exclusion, see Response to Comment A2-49. In addition, as described in Master Response 2, adverse effects on a few individuals of a special-status species do not automatically mean that the impact is significant under CEQA. Adverse effects on the special-status species group or population is an appropriate metric to judge whether a project would have a “substantial adverse effect” on a special-status species.

Response to Comment A2-57

See Response to Comments A2-4, A2-6, and A2-49 through A2-52 for why the analysis of effects to CCC steelhead DPS are accurately represented in EIR Section 3.4.4 (Impact FR-1a), with construction impacts found to be less than significant and overall Project benefits to the steelhead watershed population and DPS. Habitat effects from the Project are fully analyzed in Section 3.4.4 under Impact FR-1a of the Final EIR. In addition, as described in Master Response 2, adverse effects on a few individuals of a special-status species do not automatically mean that the impact is significant under CEQA. Adverse effects on the special-status species group or population is an appropriate metric to judge whether a project would have a “substantial adverse effect” on a special-status species.

Fish habitat impacts and population level effects to the CCC steelhead DPS, including short-term effects from Project activities, are adequately analyzed in Section 3.4.4.

Response to Comment A2-58

Although increased flow variability was already implied in the section the commenter is referring to, Section 3.4.4 on page 3.4-86 of the Final EIR was revised to more clearly state that there would be increased flow variability during construction because, as a public health and safety measure, during construction all seasonal precipitation entering the reservoir would be immediately bypassed via the diversion systems around the Seismic Retrofit work area to Coyote Creek, with no retention of flows behind the dam. As a result, during the construction phase, wet season flows in Coyote Creek would be higher and there would be much smaller dry season base flows because there is no reservoir storage to provide typical dry season base flows. The text was revised as follows:

As these flows are passed through Anderson Reservoir to Coyote Creek downstream, the shape of the downstream hydrograph (how flows change through time) will be more responsive to individual runoff events than the Pre-FERC Order Baseline, more closely approximating an unimpaired hydrograph with increased flow variability which may be a benefit to steelhead and their critical habitat, particularly migration conditions. In addition, increased flow variations associated with runoff events could boost natural processes such as sediment sorting and maintenance of aerated gravels that are important habitat for invertebrates (prey for rearing steelhead) and for steelhead spawning and would also mean that steelhead may experience wet season flows higher than the Pre-FERC Order Baseline or existing conditions (see Section 3.11, *Hydrology*) after completion of the Stage 2 Diversion and the North Channel Extension. Increased flow variability may also impair non-native fish populations benefitting steelhead as well as other native species.

Response to Comment A2-59

Regarding temperature issues during construction, please see Response to Comment A2-35.

Regarding Post-Construction Operations, Valley Water remains committed to the FAHCE *Settlement Agreement* and providing flows that maintain a daily average temperature not to exceed 18°C at Golf Course Drive after the Ogier Ponds CM construction is completed under either the FAHCE or FAHCE-Plus Modified alternatives. Because post-construction conditions with Ogier Ponds CM completed are not in the WEAP model, it is difficult to determine the exact release temperatures that would be required in all years at all times. As displayed in Figure 3.14-6 of the Final EIR, WEAP Model results do indicate 2-3°C of warming between Anderson Dam and Ogier Ponds in the fall but that is at a release temperature of approximately 13°C. As release temperatures increase and the difference between air and water temperatures are reduced, the subsequent downstream warming effect would also be reduced or eliminated. Water temperatures measured by Valley Water since 2019 indicated that in October water temperatures at the CDL averaged 18.3°C and there was an average decrease of 0.4°C at the upstream end of Ogier Ponds. Model results indicate that regardless of how the volume of the cold pool is calculated (14°C or 16°C) the release rate and release temperature are nearly identical in 20 out of 21 years. In low storage years, when the difference in volume calculations may result in a difference in the release strategy, the release temperature would not start to exceed 14°C until the fall. It is also assumed, and supported by empirical data, that there would generally be a cooling effect moving downstream at this time of year. Being able to release more water in low storage years has the potential to provide more steelhead habitat while still meeting the FAHCE temperature goals, which was the intent of the FAHCE-Plus cold pool calculation adjustment. However, given there is little difference in release temperature and release rate between FAHCE and FAHCE-Plus in the model results, Valley Water would implement the 14°C temperature target under the FAHCE-Plus Modified Alternative for reservoir releases as requested by the commenter and would work with the AMT to maintain the FAHCE commitment, which may include incremental adjustments to flow releases and how the cold water pool is calculated under either the FAHCE or FAHCE-Plus alternatives. Section 5.5 on page 5-21 of the Final EIR was revised to more clearly state that Valley Water would implement the 14°C temperature target under the FAHCE-Plus Modified Alternative for reservoir releases as requested by the commenter. The text was revised as follows:

This increase in temperature criteria could allow allows a greater portion of the reservoir volume to be used to provide summer flows and would provide additional rearing habitat downstream, according to the model. However, consistent with NMFS technical recommendations agreed upon by the TWG, Valley Water would use the 14 degrees Celsius (°C) criterion pursuant to the Project for calculating the cold water pool under the FAHCE-Plus Modified Alternative and this is not anticipated to cause major changes in habitat relative to the modeled FAHCE-plus.

Response to Comment A2-60

See Response to Comment A2-59.

Response to Comment A2-61

As described in Master Response 2 and Response to Comments A2-35 and A2-59, any fish rescue and relocation to date has occurred under FOC, and FOC impacts are considered in the cumulative impacts analysis (Section 3.4.5). Text describing the impacts of the fish rescues has been added to Section 3.4.5 on page 3.4-191 as follows:

Also, two fish rescues have been conducted under FOC according to the Fish Rescue and Relocation Plan approved by NMFS resulting in the total capture of 235 and relocation of 121 *O. mykiss* (Valley Water and Stillwater Sciences 2020, Valley Water 2021c). During these rescues, Valley Water documented mortality of four individual *O. mykiss* (less than 2 percent of captured *O. mykiss*).

For the reasons explained in more detail in Master Response 2, the cumulative impacts to individual fish resulting from fish rescue occurring during FOC, and, if conditions warrant and the TWG directs it, during ADSRP are not considered significant under the CEQA threshold applied in the EIR because, while adverse effects to individuals occur notwithstanding avoidance and minimization measures, the relocation program is designed to, and actually protects the viability of the Coyote Creek steelhead population in that it is designed to protect a sufficient number of individual fish such that the watershed population can recover from the construction of ADSRP and FOC, despite a small risk of injury or mortality of a small number of individual fish.

Also, as discussed in Response to Comment A2-59, the 2023 monitoring results indicate that rearing conditions were suitable enough during FOC for *O. mykiss* to persist, reproduce, and grow in the FCWMZ despite potential impacts from elevated temperatures during the prior three years (Valley Water 2024b), including a worst-case scenario of back-to-back drought years without chillers. The lack of positive eDNA detections in 2023 is puzzling given *O. mykiss* were directly detected during juvenile rearing surveys. While eDNA is a strong monitoring tool, it is not without limitations. Amplification success could have been impacted by water quality and/or eDNA could have been diluted during high flows and the conditions in 2023 were not average conditions so future eDNA sampling will be enlightening regarding the 2023 eDNA results. However, *O. mykiss* are present and were sampled during juvenile rearing monitoring so eDNA should be considered supplemental information relative to direct observations that the fish are present in the system.

Response to Comment A2-62

In response to this comment, citations and additional support for the presented analysis on suspended sediment have been added under Impact FR-1a (Central California Coast Steelhead). Section 3.4.4 on page 3.4-89 of the Final EIR has been updated to state:

Some fish have been shown to be attracted to turbid water over clear water, most likely to avoid predators or to conceal themselves from their prey as they are visual predators (Gradall and Swenson 1982, Cyrus and Blaber 1992, both as cited in Wilber and Clarke 2001). While turbidity can reduce foraging success, low levels of turbidity can function as cover to reduce predation in riverine, estuary, and nearshore marine environments (Gregory and Levings 1998, Wilber and Clarke 2001, Gadomski and Parsley 2005). Therefore, increased turbidity can be either an adverse or beneficial impact depending

on the context. When a fish is a visual predator, turbidity decreases foraging success and when the fish is prey, turbidity decreases predation risk; therefore, increased turbidity can be adversely impactful or beneficial depending on the context.

Response to Comment A2-63

As discussed in Master Response 2, under CEQA, current environmental conditions, including the existing conditions of Pre-FERC Order and existing steelhead populations, are used as the baselines for impact analysis. However, the impacts analysis does not attribute the adverse effects of historical watershed modifications and conditions to ADSRP. When the correct baselines are used then, the comparison of the short-term adverse impacts of the Project to the baseline conditions are less than significant on the steelhead population.

The Project and all the components would benefit the steelhead population in the long-term, offsetting ADSRP adverse effects on steelhead within Coyote Creek, and improving suitable habitat conditions within Coyote Creek as compared to the Pre-FERC Order conditions.

Response to Comment A2-64

Master Response 2 provides details on the significance determination for impacts on the CCC steelhead population and habitat conditions in Coyote Creek. As described in Master Response 2, adverse impacts on the special-status species' population is an appropriate CEQA threshold to determine impacts of the Project on fish resources. In addition, the baseline that was used in the Draft EIR to represent conditions to which the impacts of the Project are compared (i.e., the existing conditions as described in Section 3.0.2.1) is an appropriate CEQA threshold that does reflect the existing conditions of the Coyote Creek steelhead population and habitat. The EIR concludes that ADSRP impacts on steelhead as compared to the condition of the population existing prior to and during FOCF are less than significant because, after taking into account all avoidance, minimization and Conservation Measures, ADSRP adverse effects on the steelhead population within Coyote Creek (as opposed to individuals of the species) are not expected to be significant.

The EIR addresses temporal effects, spatial effects, impacts to various life history stages, and impacts to habitat conditions resulting from construction phase sediment transport extensively in Impact FR-1a. Based on sediment transport modeling, suspended sediment associated with 2-year and 5-year precipitation events are considered, and sediment deposition and other effects of sediment transport are fully evaluated. The EIR also details that the completion of Live Oak Restoration Project would have created enhanced rearing habitat prior to the start of the Project and maintained habitat throughout the Project, buffering this impact further. Finally, as stated in the EIR, increased suspended sediment could decrease steelhead population in Coyote Creek during Seismic Retrofit construction (Years 3-7) but the impact would not be substantial for the population in the watershed as a whole due to avoidance, minimization and offsets provided by implementation of the VHP conditions, AMMs, and BMPs, as well as the Live Oak Maintenance, Ogier Ponds, and Sediment Augmentation Program CMs. The EIR determines adverse impacts to CCC steelhead would be periodic during the construction phase (associated only with the critical precipitation events pursuant to the conclusions of the Sediment Study), temporary, and less than significant.

Response to Comment A2-65

In response to this comment, the Section 3.4.4 on pages 3.4-90 and 3.4-91 of the Final EIR has been revised to change Impact FR-1a to say:

Steelhead utilizing Upper Penitencia Creek would not be subjected to the increased sediment transport from Seismic Retrofit construction so there would still be habitat for adults, egg incubation, and rearing in the watershed that would not be subject to these stressors. Although low flows in recent years have resulted in estimated low abundance of *O. mykiss* in Upper Penitencia Creek, the species is persisting and a high abundance was observed in the Arroyo Aguague in 2022 and 2023. Specifically, flows in Upper Penitencia Creek were low during the 2020-2022 extreme drought. This time period represents extreme conditions and is one of the driest periods in the historical rainfall record. The conditions observed in Upper Penitencia Creek during those years are thought to be worse case scenario and the species remained. Heavy rains in the winter of 2023 improved habitat conditions and increased *O. mykiss* densities in the system, including within Upper Penitencia Creek, greatly (Valley Water 2024). The physical habitat conditions at all sites in summer and fall of 2023 were suitable to support *O. mykiss* and capture of fish in their first and second year, indicating that conditions supported some level of rearing even during the extreme drought conditions (Valley Water 2024).

Response to Comment A2-66

As described in Master Response 2, the baselines described and used in the EIR are appropriate and account for the existing condition of the steelhead population based on empirical evidence from monitoring studies and described in those baselines. Also, adverse effects on the special-status species' population (versus an individual threshold) is an appropriate CEQA threshold to determine impact severity to the species. The Draft EIR addresses impacts at this population level in Impact FR-1a. In addition, the baseline that was used in the Draft EIR to represent conditions to compare the impacts of the Project (i.e., the existing conditions as described in Section 3.0.2.1) is an appropriate CEQA baseline. A project that substantially improves habitat for a population would not be considered under CEQA to have significant long-term impacts as the environment is enhanced from the project baselines for the fisheries resources. As for short-term adverse impacts, when the appropriate baseline is used to compare the severity of Project-related impacts on CCC steelhead at a population level and considered in concert with all BMPs, AMMs, and Conservation Measures that are part of the Project, then impacts from Sediment Transport During Wet Seasons and Spring Drawdown were not found to be substantial. In addition, the potential of back-to-back 2-year or greater storm events in the wet season of construction during Years 1 and 2 is unlikely, and if it occurs, would be limited spatially within Coyote Creek.

Overall, the Project and all the components would benefit the steelhead population in the long-term, offsetting ADSRP adverse effects on steelhead within Coyote Creek, and improve suitable habitat conditions within Coyote Creek as compared to the Pre-FERC Order conditions.

Response to Comment A2-67

As described in Master Response 2, the baselines described and used in the EIR are appropriate and account for the existing condition of the steelhead population based on empirical evidence from monitoring studies and described in those baselines. Also, adverse effects on the special-status species' population (versus an individual threshold) is an appropriate CEQA threshold to determine impact severity to the species. The EIR addresses impacts at this population level in Impact FR-1a. In addition, the baseline that was used in the EIR to represent conditions to compare the impacts of the Project (i.e., the existing conditions as described in Section 3.0.2.1) is an appropriate CEQA baseline. A project that substantially improves habitat for a population would not be considered under CEQA to have significant long-term impacts as the environment is enhanced from the project baselines for the fisheries resources.

Project suspended sediment is anticipated to have adverse impacts on steelhead. Appendix F includes extensive details related to suspended sediment concentrations from Project construction. This information regarding construction phase sediment has been considered in reaching the less than significant determination on page 3.4-91 of the Final EIR regarding decreased reproductive success and decreased egg-to fry survivorship during the construction phase. Further, this sediment information has been considered in the impacts analysis for Impact FR-1a for purposes of estimating post-ADSRP the amount of remaining spawning habitat, number of spawning adults, rate of egg-to-fry survival, and rate of rearing success at the conclusion of ADSRP construction. The suspended sediment analysis predicts that under certain inflow or precipitation scenarios, if the modeled suspended sediment concentration and duration of exposure occurs, there may be up to 20 percent mortality (0-20 percent) of the incubating eggs that are present at that time (i.e., it is very unlikely that all redds in a given year would be exposed and impacts are not expected every year). These exposures would be limited in frequency and duration and are likely overestimates (see Final EIR pages 3.4-66 and 3.4-67, and Stillwater Sciences 2024). Even if only 80 percent of the eggs survive, there are hundreds of eggs in a steelhead redd which is an evolutionary strategy of an animal with naturally high mortality rates during this life stage. This means that eggs that survived high sediment exposure and eggs that were not subject to the effects (redds that occur before or after an elevated sediment event or redds in Upper Penitencia Creek) would produce more than enough offspring to inhabit the available rearing habitat in the watershed. In summary, additional analysis for amount of remaining spawning habitat, number of spawning adults, rate of egg-to-fry survival, and rate of rearing success is not necessary.

Response to Comment A2-68

Master Response 2 summarizes the significance determination for effects on the CCC steelhead population and habitat conditions in Coyote Creek. As described in the Master Response, adverse effects on the special-status species' population in Coyote Creek is an appropriate CEQA threshold to determine effects to the species. In addition, the baseline that was used in the Draft EIR to represent conditions to compare the impacts of the Project (i.e., the existing conditions as described in Section 3.0.2.1) is an appropriate CEQA threshold and accounts for the existing condition of the steelhead population within Coyote Creek, the region and the DPS. The severity of Project-related effects to the CCC steelhead population and habitat based on the baseline used in the EIR is appropriate.

As described in detail in Master Response 2, increased sediment transport and the resulting increased risk of high suspended sediment in the Creek as compared to Pre-FERC Order conditions, is identified in the EIR as one of the main adverse impacts to steelhead during construction and was assessed quantitatively using sediment transport modeling (URS 2020a; URS 2020b) paired with a meta-analysis that interprets the likely impacts on different salmonid life-stages given suspended sediment concentration and duration of exposure (Newcombe and Jensen 1996; Final EIR Appendix F; Final EIR pages 3.4-67, 3.4-68, 3.4-69, 3.4-86 through 3.4-93). In comparison to baselines that account for the existing conditions of steelhead population and habitat in Coyote Creek, Section 3.4.4 addresses temporal effects, spatial effects, impacts to various life history stages, and impacts to Coyote Creek habitat conditions for steelhead at the Coyote Creek population level extensively in Impact FR-1a when discussing construction phase sediment transport during modeled 2-year and 5-year precipitation events. In considering this analysis, it is important to take into account that the modeling shows that sediment impacts are not consecutive or non-stop through the construction years. Instead, sediment impacts are related to the occurrence of precipitation events that mobilize sediments as a result of increased flows through reservoir deposits. Such flow events do not necessarily occur each year. In addition, sediment can have both positive and negative effects on steelhead during the relatively short duration suspension during and immediately after these rain events. The EIR also details that the completion of the Live Oak Restoration Project during the FOCF will have created enhanced rearing habitat prior to the start of the Project, and ongoing maintenance of this habitat throughout the Project would be implemented pursuant to the Maintenance Activities at the Live Oak Restoration Reach CM (Final EIR Section 2.9.6), buffering this impact further. Finally, as stated in the EIR, increased suspended sediment could decrease the steelhead population in Coyote Creek during Seismic Retrofit construction (Years 3-7) by increasing the risk of mortality of incubating eggs (0-20 percent) and increasing by some amount the risk of injury, mortality, and/or decreased reproduction of individual fish at certain suspended sediment exposure concentrations and durations (Newcombe and Jensen 1996; Final EIR Appendix F). However, this adverse impact would not be substantial for the population in the watershed as a whole.

The modeling also suggests there is some risk of changes to habitat: reduced spawning gravel quality, reduced access to low-terrace floodplain habitat, increased channel incision, and reduced BMI production, but these changes are modeled to only occur in limited areas and changes are not modeled to occur in most of the available habitat. The model did not account for the ongoing ADSRP maintenance of the Live Oak Restoration Reach or North Channel FOCF habitat restoration CMs, both of which will have been implemented prior to the occurrence of Project sediment effects. Nor does the modeling account for habitat restoration resulting from implementation of other CMs, including the Ogier Ponds CM, the Sediment Augmentation Program, and long term management of habitat restoration within the CWMZ pursuant to the Project and FAHCE AMP.

The sediment effects pathways during Project construction were analyzed in Final EIR Section 3.4.4, pages 3.4-86 through 3.4-93. The EIR determines adverse impacts to CCC steelhead would be periodic, temporary, and less than significant. Over the long term, the Project would contribute coarse sediments that improve steelhead habitat conditions within Coyote Creek as compared to baseline conditions, to the benefit of the watershed population, as well as the regional population and DPS.

Response to Comment A2-69

See Master Response 2 and Response to Comment A2-68 for discussion of why increased suspended sediment effects would be periodic, temporary, and less than significant. Comment A2-69 exaggerates the predicted adverse effects of suspended sediment on migrating adults and juveniles, which would be limited to injury, mortality, and/or decreased reproduction of a small number of individual fish that happen to be present in locations within Coyote Creek during high suspended sediment concentrations resulting from episodic rain events. The comment further exaggerates the duration of predicted adverse effects on spawning habitat, which would be corrected and offset in no more than 5 years based on the habitat sediment assessment monitoring and frequency of Live Oak Restoration Reach maintenance during construction, and the ongoing habitat assessment monitoring and frequency of sediment replenishment conducted pursuant to the Sediment Augmentation Program and the Project and FAHCE AMP. Finally, the comment exaggerates the egg-to-emergence survival, the maximum mortality expected would range between 0 and 20 percent of only those redds that may occur downstream of Anderson Dam, if any at all, and which would not substantially adversely affect the watershed population.

Measures have been identified and included in the ADSRP to minimize and offset the effects of suspended sediment on steelhead. SSC would be monitored during ADSRP to determine actual sediment transport relative to model predictions and inform habitat restoration Conservation Measures. Initial analysis of suspended sediment during FOCF suggests that the modeling slightly overpredicted the concentration of suspended sediment and suspended sediment may have been higher on average under historical, Pre-FERC Order, conditions (Stillwater Sciences 2024) suggesting that the suspended sediment adverse impacts in the EIR are likely overestimated.

Spawning and rearing habitat would be restored through gravel augmentation and channel restoration (based on results of monitoring) to minimize effects of sediment deposition. These impacts (in addition to potential mortality of juveniles) would be minimized and offset by measures included in the ADSRP to restore habitat and geomorphic processes which would substantially increase rearing habitat, high flow refuge habitat, and spawning habitat, promoting recovery of the population from construction impacts and improvement over baseline conditions.

Also, as described in Section ES.6.2.6, the Live Oak Restoration Reach CM would occur during FOCF, with steelhead habitat benefits (i.e., increased and enhanced spawning and rearing habitat in the Live Oak reach) by the time of Project initiation. The approach to restoring the Live Oak Reach is to convert deep glides with homogenous slow water velocity conditions to shallower and more hydraulically complex habitat. This is anticipated to result in less deep slow water where deposition occurs, and more shallow water areas that will benefit fry rearing and juvenile feeding opportunities. Based on the hydraulic model results, Valley Water anticipates that there would be less deposition in the main channel, increased deposition in shallow slow water habitat along the margins, with an overall decrease in deposition within the reach, improving steelhead habitat which would be maintained throughout the Project and thereafter through the Project and FAHCE AMP.

Response to Comment A2-70

The temporal impacts to steelhead and their habitat during 2-year or 5-year events are described extensively in Impact FR-1a and Appendix F and in Response to Comment A2-68. As for short-term adverse impacts, when the appropriate baseline is used to compare the severity of Project-related impacts on CCC steelhead at a population level (as further described in Master Response 2) and considered in concert with all BMPs, AMMs, and Conservation Measures that are part of the Project, the Draft EIR appropriately found that Project impacts were not significant.

As described in Section ES.6.2.6, the Live Oak Restoration Reach CM would occur during FOCF, with steelhead habitat benefits (i.e., increased and enhanced spawning and rearing habitat in the Live Oak reach) by the time of Project initiation. The approach to restoring the Live Oak Reach is to convert deep glides with homogenous slow water velocity conditions to shallower and more hydraulically complex habitat. This is anticipated to result in less deep slow water where deposition occurs, and more shallow water areas that will benefit fry rearing and juvenile feeding opportunities. Based on the hydraulic model results, Valley Water anticipates that there will be less deposition in the main channel, increased deposition in shallow slow water habitat along the margins, with an overall decrease in deposition within the reach, improving steelhead habitat which would be maintained throughout the Project and thereafter through the Project and FAHCE AMP.

Response to Comment A2-71

In response to this comment, Section 3.4.4 on page 3.4-93 of the Final EIR has been revised as follows:

With the reservoir refilled, suspended sediment would decrease during constant inflow or precipitation events because the full reservoir would ~~not~~ have less exposed erodible sediment and releases would decrease so conditions would return to near-Pre-FERC Order Baseline and would not be expected to impact steelhead further.

Consistent with Appendix F, sediment erosion conditions would return to near Pre-FERC Order Baseline and would not impact steelhead further as defined by CEQA (i.e., relative to baseline conditions).

Response to Comment A2-72

Master Response 2 provides details on the significance determination for effects on the CCC steelhead population and habitat conditions in Coyote Creek. As described in the Master Response, adverse effects on the special-status species' population is an appropriate CEQA threshold to determine effects to the species. In addition, the baseline that was used in the Draft EIR to represent conditions to compare the impacts of the Project (i.e., the existing conditions as described in Section 3.0.2.1) is an appropriate CEQA threshold. The severity of Project-related effects to the CCC steelhead population and habitat based on the baseline used in the Draft EIR is appropriate.

In addition, please see Response to Comment A2-25 for a discussion of Ogier Pond CM benefits and Responses to Comments A2-64 through A2-70 for responses to the previous comments mentioned by the commenter (i.e., NMFS-25 and NMFS-26).

Response to Comment A2-73

Please see Response to Comment A2-34 for a description of impacts of non-native fish during and post construction due to water releases. In summary, although non-native predatory fish are present and may continue to be released, actions are being taken through the Invasive Species Control Plan described in Section 2.7.6, prepared for the FOCF and would be continued to be implemented, to reduce the number present in the system. Overall, the Project decreases the likelihood of discharge of predatory fish to the CWMZ and the conditions under which these non-native, warm water fish thrive because Project actions would include the option to release imported water at a new location downstream of the CWMZ, the Project improves steelhead habitat conditions and decreases warm water habitat for non-native predatory fish, and the Project continues implementation of the Invasive Species Monitoring and Control Plan, and, considering the baseline comparison as noted in Master Response 2, the Project would not result in significant adverse impacts on aquatic species or habitats from discharge of non-native fish in imported water to Coyote Creek. As such, Valley Water does not agree with the recommendation by the commenter about developing and implementing further methods to reduce the discharge of non-native species into Coyote Creek.

Response to Comment A2-74

See Response to Comment A2-73 regarding why impacts from the release of non-native species would not result in significant adverse impacts on aquatic species or habitats. As this is included in the analysis included in Final EIR Section 3.4.4 (pages 3.4-93 and 3.4-94), Valley Water disagrees that reanalysis is needed.

Response to Comment A2-75

See Response to Comment A2-35 regarding the temperature effects of delayed chiller installation under FOCF in Coyote Creek. In addition, DO and depth conditions to date under FOCF were suitable for steelhead and are expected to remain suitable for steelhead as Valley Water would continue to implement the FOCF CM of a 10 cfs release of local water through the stage 1 or stage 2 diversion system (as applicable), and/or imported water released from the CDL to maintain flow within the FCWMZ. The 2023 monitoring results indicate that rearing conditions (i.e., temperature, depth, and DO) were suitable enough during worst case FOCF conditions for *O. mykiss* to persist, reproduce, and grow in the FCWMZ despite potential impacts from elevated temperatures during the prior three years (Valley Water 2024b). As such, it is expected that flow depths, temperatures, and DO are within a range that can support steelhead migration, spawning, incubation, and rearing in the FCWMZ throughout ADSRP construction, as stated on Final EIR page 3.4-94. In conclusion, Valley Water disagrees that it is necessary to reevaluate construction flow measures and associated CMs.

For the reasons summarized in Response to Comments A2-49 and A2-52, and described in Final EIR Appendix F and Section 3.4.4 (Impact FR-1a), taking into account both the cumulative effects of instream flows during FOCF and the current status of steelhead in the Coyote Creek Watershed, and considering the description in the Steelhead Recovery Plan of regional

steelhead habitat conditions and recommendations, ADSRP, including implementation of all CMs, post-construction operational flow releases, and other Project components, is expected in the short term to maintain, and in the longer term to improve steelhead populations within the Coyote Creek Watershed.

Response to Comment A2-76

As described in Master Response 2, with respect to the selection of the significance threshold for Project impacts to special-status fisheries, the threshold of substantial effects on the Coyote Creek steelhead population was chosen based on a number of considerations. First, a “species” is a group or population of organisms, and its status and endangered or threatened versus in recovery relates directly to the size and persistence of the group or population of organisms. Thus, the significance threshold asks whether a project would have a substantial adverse effect on the species group or population, not whether a project would have a substantial adverse effect on one or a few individuals of a species. Adverse effects on a few individuals of a special-status species do not automatically mean that the impact is significant under CEQA and Valley Water concluded the impacts from Fish Rescue and Relocation would be less than significant. On the contrary, in worst-case conditions within Coyote Creek during construction phase and reservoir drawdown, such as those experienced in 2021 and 2022, Fish Rescue and Relocation would avoid and/or minimize declines at the population level and provide for survival of enough individuals that the species population expand within Coyote Creek upon the conclusion of ADSRP construction, particularly with the implementation of the habitat restoration Conservation Measures.

Response to Comment A2-77

Section 2.4, Table 2-1, and Section 2.7.5 includes descriptions of studies as well as impact avoidance and minimization measures that are part of the Project. Plans and studies identified in the EIR include a Fish Rescue and Relocation Plan, Sediment Augmentation Program, CMs, water temperature monitoring, suspended sediment monitoring, sediment deposition monitoring, VAKI Riverwatcher adult escapement monitoring, spawning surveys, migration flow monitoring, juvenile rearing studies, migration studies, growth comparative studies, eDNA monitoring, fish rescue and relocation, non-native control methods, invasive species monitoring, habitat monitoring, and groundwater monitoring.

Avoidance and minimization measures implemented during construction monitoring, including the studies included in Table 2-1 and Section 2.7.5, are described in detail in Section 2.11 and include BMPs as well as Valley Habitat Plan Conditions. In addition, the permits, approvals, and consultations needed for the Project are described in Section 2.12.

Response to Comments A2-78 through A2-80

The following response addresses comments A2-78 through A2-80. The EIR addresses population impacts to habitat conditions extensively in Section 3.4.4 (Impact FR-1a).

The commenter asserts, “... it will take time for these habitat benefits to translate into benefits to the steelhead population. . .The benefits may only be realized if the population persists through construction and is in suitable condition to respond to the habitat improvement.” As described in Section ES.6.2.6, the Live Oak Restoration Reach CM would occur during FOCP, with

steelhead habitat benefits (i.e., increased and enhanced spawning and rearing habitat in the Live Oak reach) in place before Project initiation. This restored habitat would be maintained throughout the Project and available in that reach throughout ADSRP construction Years 1 through 10. As described in Section 2.6.1.1, Ogier Ponds CM construction would take 3 years (Project calendar Years 6 through 8), with steelhead habitat benefits present as early as the end of Year 6 (e.g., nearly immediate benefits in fish passage and rearing habitat quantity and quality). Upon completion, the Ogier Ponds CM would improve migratory conditions, increase spawning and rearing habitat quantity, and increase rearing habitat quality by reducing stream temperatures and reducing risk of invasive species. In addition, the North Channel Extension will be completed during FOCF (prior to the Project) decreasing fish stranding risk in the North Channel by the start of ADSRP construction. As described in Section 2.6.4, the Phase 2 Coyote Percolation Dam CM would occur during Years 1 and 2, with steelhead habitat benefits (i.e., improved migration habitat) by the end of Year 2. Therefore, habitat benefits relative to the Pre-FERC Order Baseline for steelhead would be present in Coyote Creek starting at Project initiation and would increase through Year 10.

The timing and magnitude of habitat restoration assures ADSRP benefits for steelhead within the Project area, particularly the other construction phase AMMs, BMPS and CMs that are designed and based on the results of Appendix F, and are expected to maintain and may even increase the population in Coyote Creek allowing the population to expand in response to completion of the habitat improvements, particularly when post-construction operations are implemented and functioning with those habitat improvements as designed.

The commenter also asserts that “significant ongoing impacts (blocked reservoir passage) are not addressed (i.e., there are significant effects that are unmitigated and will have significant impacts on the population.” As described in Master Response 2, CEQA requires evaluation of the adverse impacts on steelhead and steelhead habitat within Coyote Creek based on the current condition of the species and its habitat, which is the analysis that has been conducted. CEQA does not require the Project to mitigate for effects that exist as a result of all historical watershed modifications that will continue to exist post-project. The implementation of the ADSRP CMs, including the ongoing maintenance of the Live Oak Restoration Reach, the implementation of the long-term Sediment Augmentation Program, the completion of the Ogier Ponds restoration, the Phase 2 Coyote Percolation Dam CM, the FAHCE or FAHCE-Plus Modified rule curve post-construction operations, and implementation of the Project and FAHCE AMP in coordination with the AMT lead to a conclusion that as compared with both the Pre-FOCF conditions and as compared with the Future Baseline (where the dam would be operated in the manner it has been historically operated), the Project increases and improves suitable habitat and conditions within Coyote Creek for the benefit of the steelhead population.

Valley Water therefore disagrees with the commenter’s assertion that the overall impact to CCC steelhead is significant and additional mitigation is required. See Master Response 2 for additional explanations of why these impacts are less than significant.

Response to Comment A2-81

The EIR demonstrates and the commenter agrees that the effects to Chinook salmon and their habitat (including EFH; see Final Section 3.4.4, pages 3.4-140) is expected to be much the same as described for CCC steelhead (Final EIR Section 4.4.4, pages 3.4-118). As described in Response to Comments A2-3, A2-25, A2-35, A2-49, A2-53, and A2-78 through A2-80, effects to steelhead

from ADSRP are less than significant compared to existing conditions. One major difference is Chinook salmon juveniles do not rear year round so the temperature impacts discussed for steelhead would not apply to Chinook salmon. As such, the EIR's determination that impacts on Chinook are less than significant is appropriate.

Response to Comment A2-82

As described in Response to Comments A2-8 and A2-81, the effects to steelhead and Chinook salmon from ADSRP are less than significant compared to existing conditions. In addition, impacts to the other aquatic species and habitat considered under CEQA was determined to be less than significant. As such, Valley Water disagrees with the assertion from the commenter that there are "significant unmitigated impacts" that would cause cumulative impacts to be considerable (see Section 3.4.5).

Response to Comment A2-83

Stage 1 and Stage 2 diversion types are described in Chapter 2, *Project Description*, on page 2-58 of the Final EIR. The Stage 1 Diversion System would operate only until the reservoir was fully dewatered during the spring of Year 2 (Figure 2-5). The Stage 2 Diversion System would provide the additional flow capacity from the reservoir through the diversion system that would be required during dam removal and construction. Regardless of whether Stage 1 or Stage 2 diversions are implemented, as stated in the text referenced in the comment, all reservoir inflows during construction would be diverted and released downstream as quickly as possible to maintain the reservoir elevation at deadpool for public health and safety reasons. Because the outlet for the Stage 1 diversion passes a maximum of 2,500 cfs as compared to the Stage 2 diversion outlet, which passes a maximum of 6,000 cfs, reservoir reductions to deadpool after precipitation events occur more quickly after implementation of the Stage 2 diversion system, which is important to continue to assure public health and safety during construction Years 2-6 when the dam embankment is incrementally lowered prior to rebuild.

Response to Comment A2-84

The section of the Draft EIR that the comment refers to is an analysis of the hydrology impacts of the Project during construction. Therefore, the excerpt is specific to the amount of habitat predicted by the HCM under construction in-stream flows.

For a more detailed discussion about impacts of temperatures on steelhead please see Response to Comments A2-3, A2-13, A2-35, and A2-59. Please see Response to Comments A2-34 and A2-95 for a description of impacts of non-native fish during and post construction due to water releases. An analysis of all conditions, including impacts of temperature on habitat and impacts of the non-native fish is included in the EIR (Section 3.4.4, Impact FR-1a). These analyses support a conclusion that, when considering all relevant factors, there would be sufficient rearing habitat within the FCWMZ throughout the dry season work window.

Response to Comment A2-85

The fish relocation that is the subject of the comment occurred as part of the FOCP, not the ADSRP. Valley Water detected no *O. mykiss* in Upper Penitencia Creek in the fall of 2021 and 2022 during rearing monitoring surveys conducted after *O. mykiss* were relocated there in 2020.

However, during eDNA sampling, positive detections of *O. mykiss* DNA occurred during each sampling event (Valley Water 2022b). Further electrofishing sampling conducted in 2022 in Arroyo Aguguae, a tributary of Upper Penitencia Creek, detected *O. mykiss* of multiple age classes (Valley Water 2023b). Relocated *O. mykiss* could have migrated into more favorable conditions in Arroyo Aguguae or out-migrated during the winter flows. Fish rescue and relocation efforts were conducted under the direction of the TWG and conditions were communicated as the relocations were being implemented. Drought conditions are a natural stressor for *O. mykiss* in the study area and cannot be predicted. Lack of detections in 2021 and 2022 were likely caused by reduced flow from the extreme drought conditions within the area.

Any future rescue and relocation efforts due to increased temperature and low DO in the FCWMZ would occur with TWG coordination and pursuant to the Fish Rescue and Relocation Plan (Stillwater Sciences 2020) which was approved during the FOCIP emergency Section 7 consultation by NMFS, USFWS, and CDFW. As a part of ongoing TWG coordination during fish rescue and relocation, the TWG, including NMFS, would identify the most appropriate refuge areas for relocated fish at that time, which may or may not include Upper Penitencia Creek.

Response to Comment A2-86

The commenter asserts, "Assessment of temporary exclusion of CCC steelhead from habitat downstream of Anderson Dam does not appear to be discussed. Suggest including and assessing this effect." However, the effects of temporary exclusion are described in Final EIR Section 3.4.4 on page 3.4-81, including noting that the North Channel from which steelhead would be excluded is typically dry, and therefore habitat "loss" is not anticipated.

In addition, the commenter suggests describing the long-term passage effects of Anderson Dam. As described in Master Response 2, under CEQA, current environmental conditions are properly used as the baseline for impact analysis, and Project impacts, not the effects of historical modifications within the watershed, must be analyzed. Evaluation of ADSRP construction phase and post-construction operational impacts as compared to the Pre-FERC Order Baseline considers the effects of the Project on species and habitat conditions that existed immediately prior to the FERC Order. In addition, effects of post-construction Project operations are considered in comparison to the Future Conditions Baseline, to determine the effects of the Project that would occur if the dam continued to be operated in the same manner it was operated historically (without FAHCE or FAHCE-Plus Modified rule curves), but with updated 2035 demographics and water supply demand integrated into the baseline, as well as the elimination of dam safety reservoir retention restrictions.

Using these comparisons, there would be no adverse effects on steelhead migration or passage effects due to Anderson Dam. Instead, taking into account migration habitat improvements resulting from the Ogier Ponds CM and Phase 2 Coyote Percolation Dam CM designs, as well as the implementation of FAHCE or FAHCE-Plus Modified flow operations, the Project is expected to improved steelhead migratory conditions and passage as compared to existing and future conditions. Taking into account the Conservation Measures incorporated into the Project, steelhead habitat conditions supporting migration would improve as a result of ADSRP to the benefit of the CCC steelhead population. Accordingly, there is no need to develop further mitigation or Conservation Measures for the continued existence of Anderson Dam, which has existed in the same location and configuration since 1950. Instead, the restoration and post-construction flow operations Conservation Measures already proposed as a part of ADSRP

would improve conditions for the population as compared to the way the dam has historically affected environmental conditions (e.g. sediment transport, large wood recruitment, etc.).

Response to Comment A2-87

The commenter asserts, "...we suggest that Valley Water consider implementation of habitat restoration actions within this reach of Coyote Creek as part of the ADSRP to help address the project's significant impacts several of which are unmitigated." However, as stated in Section 3.4.4, the impacts of the Project would be less than significant on any species identified as a candidate, sensitive, or special-status fish species in local or regional plans, policies, or regulations, or by CDFW, NMFS, or USFWS in the fisheries resources study area per CEQA thresholds.

Therefore, no additional mitigation, e.g., habitat restoration actions, is required to be identified because there are no unmitigated significant adverse effects on steelhead or other fisheries resources.

Response to Comment A2-88

Valley Water did not intend for this statement regarding mitigation through payment of VHP fees to imply that VHP compliance addresses all impacts on all types of aquatic species or that it would satisfy the concerns of all agencies. However, as described in Master Response 3, Valley Water's compliance with VHP conditions, including payment of VHP impact fees (both general and specific to sensitive habitats), would result in some benefit to aquatic species whether or not they are covered by the VHP. The VHP's conservation strategy includes specific biological goals for aquatic resources, including biological objectives for the creation, restoration, and preservation of riparian, stream, pond, and wetlands habitat types. By way of example, VHP biological objectives for aquatic resources include restoration or creation, management, and preservation of an estimated 339 acres of riparian forest and scrub, 75 acres of wetlands, 72 acres of pond, and 10.4 miles of stream within the Reserve System (VHP Section 5.3.2 Landscape Conservation and Management, Enhancement and Restoration of Natural Communities, page 5-76.). While the VHP does not have specific conservation objectives for fish, conditions imposed on VHP-covered projects and the VHP's conservation strategy would benefit fish, including CCC steelhead and its critical habitat, as well as chinook salmon and Essential Fish Habitat.

Response to Comment A2-89

Regarding the Geomorphic Flows Plan, please see Response to Comment A2-26.

Response to Comment A2-90

It is assumed the commenter is referring to the passage on page 2-94 (lines 34-39) of the Final EIR that states, "The fish passage improvements would be designed and constructed in a manner consistent with the NMFS Anadromous Salmonid Passage Facility Design Manual (NMFS 2011) and CDFW California Salmonid Stream Habitat Restoration Manual (Flosi et al. 2010) to provide safe fish passage conditions whether the dam is inflated or deflated." In response to this comment, page 2-98 of the Final EIR has been revised as follows:

The fish passage improvements would be designed, and constructed, and operated in a manner consistent with the NMFS *Anadromous Salmonid Passage Facility Design Manual* (NMFS 2023 2011) guidelines for "nature-like fishways" and CDFW *California Salmonid Stream Habitat Restoration Manual Part XII* (Love and Bates, 2009 Flosi et al. 2010) guidelines for roughened channels) to provide safe fish passage conditions whether the dam is in inflated or deflated. Further refinements to the Phase 2 design and the Coyote Percolation Facility Operations Plan would be developed during the construction phase in consultation with the TWG.

Response to Comment A2-91

It is assumed the commenter is referring to the passage on page 2-128 and 2-129 of the Final EIR that describes operations of the Coyote Percolation Dam and states, "Key elements of operations will include the following: Operational flexibility to temporarily drain the Coyote Percolation Pond to improve smolt migration when logistically practicable given water supply demands and ecologically appropriate in terms of habitat management to protect steelhead and other listed and sensitive aquatic and riparian species."

Through Technical Assistance meetings with NFMS, Valley Water has agreed that the fish passage improvements would be designed, constructed, and operated in a manner consistent with the NMFS *Anadromous Salmonid Passage Facility Design Manual* (NMFS 2023) and CDFW *California Salmonid Stream Habitat Restoration Manual* (Flosi et al. 2010) to provide safe fish passage conditions whether the dam in inflated or deflated. Further refinements to the Phase 2 Coyote Percolation Dam CM design and the Coyote Percolation Facility Operations Plan would be developed during the construction phase in consultation with the TWG.

In response to this comment, the following was added to Section 2.6.4 on page 2-95 of the Final EIR:

In addition to the passage improvements associated with the Phase 2 Coyote Percolation Dam, studies on juvenile fish passage and predation risk through the pond complex would be conducted post-enhancements to assess if changes are necessary following implementation of the facility to improve juvenile out-migration and provide a research-based assessment to make ecologically responsible decisions regarding ongoing operations and adaptive management of the facility. In coordination with the AMT, Valley Water would conduct studies to assess conditions for juvenile outmigration during operation of the Phase 2 Coyote Percolation Facility. A full study plan would be finalized in consultation with the TWG in the final year of Phase 2 construction, so implementation of the studies can occur once the Project is completed and post-construction Anderson Dam facilities operations are implemented.

There is not enough information at this time to assume that draining the Coyote Percolation Pond during spring will assist steelhead migration. Further, the pool is not typically warm during the migration season for adult steelhead or steelhead smolts thus reducing the metabolic demand of non-native fish that are more adapted to warmer conditions. Therefore, it is not known if draining the pond would reduce predation and improve smolt migration. Instead, these actions could concentrate non-native fish and may create areas of potential stranding. Not enough information is available at this time to know if draining is the ecologically responsible

decision, so EIR Section 2.10 and Appendix D provide for completion of additional monitoring and assessment during the adaptive management phase that may lead to revisions to the operations plan.

The suggestion to drain the percolation pond from February 1 through April 30 each year has potential significant adverse effects on other environmental resources that would need to be evaluated. These resources include likely adverse effects on groundwater recharge, water supply, subsidence and groundwater dependent habitats. As discussed with NMFS in Technical Assistance meetings, the comment proposes to drain the pond entirely during the three typically most productive groundwater recharge months of the year in all years, including dry, extremely dry, and multiple dry (drought) years. Coyote Percolation Pond is Valley Water's most productive groundwater recharge facility and is critical to complying with Valley Water's obligations to provide groundwater recharge for water supply.

Response to Comment A2-92

Valley Water assumes the commenter is referring to Coho salmon. In response to this comment, Section 3.4.1.1 on page 3.4-36 of the Final EIR has been revised as follows:

Although there were potential historical reports of coho salmon in Coyote Creek Watershed, the habitat conditions likely did not support this species, and the credibility of the historic accounts is unknown. Coho salmon are not currently present but were not historically present and are not currently present in the Coyote Creek Watershed, coho salmon EFH is designated in Coyote Creek downstream of Anderson Dam (Leidy et al. 2005b, Leidy 2007).

Essential Fish Habitat is included in the Final EIR on pages 3.4-35 and 3.4-36 and includes a description of fall-run Chinook salmon EFH being present in the study area.

Response to Comment A2-93

Impacts FR-1f, FR-1g, and FR-1h detail Project impacts to the tidally influenced habitats within Coyote Creek Watershed. Coastal pelagic and groundfish EFH would have similar impacts as those on the estuarine species' (i.e., Impacts FR-1f, FR-1g, and FR-1h) and are analyzed by applying the estuarine species impacts analysis to consideration of the impacts on pelagic and groundfish species and EFH. In addition, the area of EFH for groundfish and pelagic fish affected by the Project is a very small proportion (<0.01 percent) of the total EFH designated for the species along the Pacific Coast.

In response to this comment, page 3.4-36 of the Final EIR has been revised to clarify rationale for anticipating similar impacts as those on the intertidal species that were analyzed (i.e., longfin smelt, white sturgeon, and green sturgeon). Text in Section 3.4.1.1 on page 3.4-36 of the Final EIR has been revised as follows:

The area of EFH for groundfish and pelagic fish affected by the Project is a very small proportion (<0.01%) of the total EFH designated for the species along the Pacific Coast. These habitats are present in a very limited area of the study area and are not expected to be impacted by project actions. Coastal pelagic and groundfish EFH would have similar impacts as those on the estuarine species' Coastal pelagic and groundfish EFH would have similar impacts as those on the estuarine species' (i.e., Impacts FR-1f, FR-1g,

and FR-1h) and are analyzed by applying the estuarine species impacts analysis to consideration of the impacts on pelagic and groundfish species and EFH. As described in Impacts FR-1f, FR-1g, and FR-1h, increased suspended sediment is not anticipated to substantially decrease the quality of estuarine species' habitat. In addition, groundfish and pelagic species are adapted to periodic pulses of high sediment and have the ability to swim away from areas of temporary poor habitat quality.

Response to Comment A2-94

In response to this comment, Section 3.4.3.6 on page 3.4-78 of the Final EIR has been revised as follows:

Coastal pelagic and groundfish EFH would have similar impacts as those on the estuarine species' habitat analyzed in this document (i.e., increased sediment transport and an extremely small change in salinity in the intertidal zone) but the impacts would be even less because the only potential impacts would be increased sediment transport to the bay, which would have no impact on coastal pelagic and groundfish EFH and may actually benefit this habitat; therefore, there is no further analysis of coastal pelagic and groundfish EFH.

Response to Comment A2-95

The premise of the comment is inaccurate. Juvenile monitoring surveys show that native species are most abundant in the FCWMZ and non-native species that overlap with *O. mykiss* are smaller in size (Valley Water unpublished data) so flow variability must favor native species in this reach. Non-native species are likely more abundant in Ogier Ponds where water slows and warms providing habitat for non-native species; therefore, the Ogier Ponds CM is proposed to increase steelhead habitat and decrease non-native species habitat to counteract this issue and offset adverse Project impacts. Conditions of non-native fish species in the study area are discussed in Section 3.4.1.4 and are the result of historical causes within the watershed. Conservation Measures described in Section 2.9 and post-construction operations based on FAHCE rule curves, including increased outmigration flows, introduce some variability into the hydrograph as compared to baseline conditions, and would improve refuge and migration habitat for native species and reduce predation. The post-construction release of water from Anderson Reservoir through newly constructed low-level outlets may also reduce the abundance of non-native species entering the CWMZ by allowing more flexibility in releasing cold water and blending water at different levels in the reservoir to further improve temperatures for native fish species. Project operations would provide winter base flows, spring pulse flows, summer base flows, and flow ramping to improve habitat for native species as described in Section 2.8.3. In addition, as described in Section 2.7.6, the Invasive Species Monitoring and Control Plan was prepared for the FOCPP and would continue to be implemented through construction of the Project to further reduce adverse effects of non-native species on steelhead and other native aquatic species.

Response to Comment A2-96

It is assumed NMFS meant to refer to page 2-92 of the Draft EIR (page 2-78 of the Final EIR) as well as page 2-74 of the Draft EIR (page 2-99 of the Final EIR) in the body of the comment. In response to this comment, pages 2-78 and 2-99 of the Final EIR have been revised as follows:

Page 2-78:

To provide geomorphic stability and suitable fish passage and rearing conditions, the Ogier Ponds CM would include a low-flow channel designed to convey flows of approximately 30-50 cfs, which is a flow range that would occur very often post construction which is the expected typical dry season flows of Coyote Creek downstream of Anderson Dam after the seismic retrofit construction is complete. This 30-50 cfs flow would support managed aquifer recharge at the downstream Coyote Percolation Pond and instream recharge at downstream portions of Coyote Creek.

Page 2-99:

...Project by restoring over 2,800 ft of channel and creating over 20,000 square feet spawning habitat, over 65,000 feet of suitable juvenile rearing habitat, and over 20,000 square feet of shallow water habitat for fry rearing an inundated margin habitat at typical spring and summer flows (approximately 30-50 cfs 30cfs).

The Basis of Design report will analyze a range of flows that capture the range of typical spring and summer flows but the habitat enhancement estimates are expected to be the same throughout the range (i.e., creation of over 67,000 square feet of suitable juvenile rearing habitat, and over 33,000 square feet of shallow water for fry rearing in inundated margin habitat at 30 or 50 cfs).

Response to Comment A2-97

The benefits of the implementation and long-term adaptive management of the Sediment Augmentation Program are described in Response to Comments A2-28 through A2-30, as well as Table 2-1 and Section 2.6.3 of the Final EIR. Table 2-1 and Section 2.6.3 of the Final EIR has been revised to clarify the date for plan finalization (2 years prior to the completion of the dam seismic retrofit activities) and to clarify augmentation schedule. Refer to Response to Comment A2-28 for details of the changes to the Sediment Augmentation Program in Section 2.6.3.

All sediment augmentation would be subject to adaptive management and would be open to modification through the adaptive management process. Following large flow events and in response to post-construction incision, deposition, and spawning and rearing habitat monitoring data and information, Valley Water would inspect habitat quality within the CWMZ to determine if habitat maintenance is required. Maintenance would include placing up to 500 cy of spawning gravels or sediments within Coyote Creek between Anderson Dam and Ogier Ponds at least every 5 years, as and where determined to be necessary pursuant to the Project AMP.

Monitoring of the Sediment Augmentation Program would occur as part of the Post-Construction Project and FAHCE AMP and would be reviewed by the AMT. The monitoring for this habitat restoration CM would include long-term collection of sediment transport data relative to flows, and carrying out fisheries habitat and sediment deposition monitoring by collecting substrate composition and spawning and rearing habitat quality transect data throughout the CWMZ. Valley Water would share this data and information and work in coordination with the AMT, including regulatory agencies, to determine appropriate injection locations, sediment volume, composition frequency of sediment augmentation; and duration of the program as required to meet the overall restoration objective of the Project and FAHCE

AMP. The sediment placement volume, placement location, schedule for injection, and duration of the program may change during adaptive management in consultation with the AMT.

Given the benefits and the adaptive management process for the Sediment Augmentation Program, Valley Water disagrees that a sediment transport study is necessary to specify sediment augmentation actions in the North Channel, elsewhere in Coyote Creek, and to determine how much sediment is annually intercepted by Anderson Reservoir for compensation.

The Sediment Augmentation Program has been extended beyond Year 15. In response to this comment, page 2-90 of the Final EIR has been revised to include:

Sediment augmentation would continue pursuant to the Project and FAHCE Adaptive Management Program on at least a 5-year replenishment schedule for up to 20 years.

Sediment augmentation could be extended beyond that window pursuant to adoption of such measures as part of the implementation of the AMP.

Response to Comment A2-98

The Project already provides Conservation Measures that offset Project impacts by maintaining large woody debris in the Live Oak Restoration Reach and installing and maintaining large woody features in the Ogier Ponds Restoration Reach. While it is uncertain if LWD is a limiting factor for steelhead populations in the Coyote Creek system, making the degree of any additional augmentation that may be necessary uncertain. Further, future, post-construction placement of large woody debris within the Live Oak Restoration Reach and Ogier Ponds restored channel would be considered in coordination with the AMT as necessary to meet the measurable goals and objectives of the Project and FAHCE AMP.

Response to Comment A2-99

Fisheries monitoring to be implemented throughout the ADSRP Project is substantial and detailed in Final EIR Section 2.7.5 (pages 2-105 through 2-109). Monitoring programs include migration flow monitoring, migration studies, growth comparative studies, eDNA monitoring, VAKI adult monitoring, fish rescue and relocation, and spawning surveys are planned to effectively monitor water quality, steelhead migration, spawning, juvenile growth and survival, and smolt production. These monitoring programs were developed with coordination from the TWG and adequately monitor all life stages of steelhead. In addition, Valley Water is able to utilize previous data to identify safe flow ranges and locations for redd surveys.

Response to Comment A2-100

The potential for imported water to transport nonnative species that may compete with or prey on native fish is discussed in the Final EIR on page 3.4-40. However, as stated in the Final EIR on page 3.4-1, Valley Water's use of imported water is actively ongoing and is therefore a component of the - Pre-FERC Order and Existing Conditions baselines. The nonnative species and pathogens in the system are the result of a number of historical causes and would not be increased by construction or operation of the Project as the use of imported water would remain consistent existing conditions. Because Valley Water already uses imported water in Coyote Creek, and the sources and volumes of the imported water that may be used during

project construction are the same as existing sources and conditions (and therefore contain the same potential for nonnative species introduction), there is no change in the potential for introduction of nonnatives relative to the CEQA baselines. Therefore, no further measures such as screens to prevent the discharge of nonnative species into Coyote Creek and Anderson Reservoir are necessary to reduce project impacts.

It should be noted that the predatory fish found using the same rearing habitat as juvenile steelhead were often small and would not pose a threat to juvenile steelhead. Based on sampling, it appears that habitat preference of larger predatory fish does not overlap with the fast water feeding habitat preferred by juvenile steelhead during summer rearing.

In addition, Conservation Measures described in Section 2.9 and post-construction operations based on FAHCE rule curves, including increased outmigration flows and reduced temperatures, would improve refuge and migration habitat for native species to avoid predators. The post-construction release of water from Anderson Reservoir through newly constructed low-level outlets may also reduce the abundance of non-native species entering the FCWMZ. The Project operation would provide winter base flows, spring pulse flows, summer base flows, and flow ramping to improve habitat for native species as described in Section 2.8.3. As described in EIR Section 2.7.6, the Invasive Species Monitoring and Control Plan was prepared for the FOC and would continue to be implemented through construction of the Project to further reduce the interaction between native and non-native species.

Response to Comment A2-101

Please see Response to Comment A2-78

Response to Comment A2-102

As discussed in Response to Comment A2-33, the area identified by NMFS on Figure 2-11 is the stockpile area, some portions of which may be included in the floodplain as a function of preparation of final design plans, depending on additional data information and modeling being conducted to finalize design.

Response to Comment A3-1

The commenter is correct that a repair application for Anderson Dam was filed in 2016. Dam safety related issues will be resolved by Valley Water prior to approval of the repair application, and associated Project work will be designed and constructed by Valley Water under the direction of a Civil Engineer registered in California.

Response to Comment A3-2

The construction schedule of 7 years (see Final EIR Section 2.5.1.1, *Schedule*, on pages 2-37 and 2-38) for the Seismic Retrofit Project components was developed by Valley Water based on best engineering judgment and is a reasonably foreseeable schedule. An EIR is entitled to assume that assumptions that are an integral part of a proposed project, such as a proposed schedule, would become reality. *Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal. App. 3d 1022,1030.

As described in the Partially Recirculated Draft EIR, the construction schedule was revised to address construction schedule and sequencing risks identified during review by the Project Board of Consultants, which reviews the Project and makes recommendations to FERC, including evaluating schedule risks like those expressed in this comment by DSOD. Project changes described in the Partially Recirculated Draft EIR and captured in revised Chapter 2 of this document include extending work hours, adding some weekend days, and beginning work on certain Project components sooner. These proposed changes would allow Valley Water to construct planned Project components within the planned construction timeline before the wet season each year to improve its ability to complete the Project on schedule. . It would be speculative to assume that construction would be delayed beyond the schedule included in the EIR, and if delayed when the delay would occur, the duration of the delay, and what construction activities would be affected (including but not limited to dewatering). Pursuant to CEQA Guidelines Section 15145, an EIR does not need to analyze speculative impacts. Therefore, consideration of potential construction delays is not required to be considered in the EIR. Valley Water would perform the necessary environmental review under CEQA should the construction schedule change in a manner that would alter the findings and conclusions of the Final EIR.

Response to Comment A3-3

During construction of the Project, operation of Coyote Reservoir would remain consistent with requirements established by DSOD in 1992. The Draft EIR has been updated to consistently describe the operation of Coyote Reservoir, which were established by DSOD in 1992 based on fault rupture concerns at Coyote Dam. The component description for Normal Operation of Coyote Reservoir in Table 2-1 in Section 2.4, *Overview of Project Components*, has been revised in the Final EIR as follows:

Coyote Reservoir is approximately 1.5 miles upstream of Anderson Reservoir. Along with other inflows to Anderson Reservoir, its operation would affect flows through Anderson Reservoir during Project construction. Valley Water would maintain existing normal operations of Coyote Reservoir throughout the drawdown of Anderson Reservoir, and construction of the Seismic Retrofit components. By maintaining existing operations of

Coyote Reservoir during construction of the FOCIP and Project, Valley Water would partially retain the ability to store winter runoff in Coyote Reservoir and release it through Coyote Reservoir's outlet pipe to Coyote Creek to pass through Anderson Dam during the dry season, benefitting the native aquatic plants and animals that reside in this reach. As seismic retrofit construction progresses, all Coyote Reservoir releases would pass through the existing Anderson Dam outlet, through the Stage 1 Diversion System, through the Stage 2 Diversion System, and finally through the LLOW.

Valley Water aims to maintain a minimum streamflow of 3 to 5 cfs at Gage SF12 (downstream of Coyote Reservoir) through releases from Coyote Reservoir in the spring and summer (when supply is available) and managing storage consistent with the winter to stay within DSOD restriction established in 1992. Full capacity of the Coyote Reservoir outlet would be used when restrictions (maximum storage in Coyote Reservoir exceeds is 11,843 AF, which corresponds to the DSOD restriction on water surface elevation of 758.0 feet in local datum or 760.9 feet in NAVD 88, to reduce storage in Coyote Reservoir to the DSOD-restricted level.).

Furthermore, no operational changes are proposed for Coyote Reservoir during post-construction operations. Flows between Coyote and Anderson Reservoirs within Coyote Creek would continue within current, normal ranges during the entirety of the Project..

Page 3.11-70 under Impact HYD-2 in Final EIR Section 3.11, *Hydrology and Water Quality*, was revised as follows to clarify the operational restrictions for Coyote Dam:

Another concern with respect to flooding during the Seismic Retrofit construction period is the potential failure of Coyote Dam, which is located approximately 1.5 miles upstream of Anderson Reservoir. A seismic restriction has been in place for Coyote Reservoir since 1992, limiting storage in this reservoir to 11,843 AF, or 52.5 percent of total capacity (Valley Water 2023a 2022a). DSOD determined that such a restriction was necessary based on fault rupture concerns at Coyote Dam. given the construction of the dam and proximity to the Calaveras Fault. Should an earthquake occur when Coyote Reservoir is full there is a chance the underlying soils could liquify and/or the dam could otherwise slump allowing water to flow uncontrolled over slumping soils, which would cause additional erosion of dam material and the possibility of the complete loss of the dam.

Response to Comment A3-4

Please reference Anderson Dam Seismic Retrofit Project, Reservoir Operation and Reliability During Construction, Volume 2: Evaluation of Interim Reservoir Operation dated October 2023, which was enclosed in a letter from Valley Water to DSOD dated November 30, 2023. Table 7-1 and Table 7-2 provide a comparison of exceedance probabilities for various interim dam reservoir elevations assuming Coyote Reservoir is maintained at dead pool (Scenario 5 and Scenario 6) and Coyote Reservoir is operated consistent with requirements established by DSOD in 1992 (Scenario 7 and Scenario 8, normal operation). As demonstrated in Table 7-1 and Table 7-2, operating Coyote Reservoir lower than elevation 758.00 feet as a risk reduction would not meaningfully change the probabilities of reaching maximum annual elevations in Anderson Reservoir. As such, contingency measures during Project construction Years 2 through 6 would not be required, and in any event are speculative.

DocuSign Envelope ID: 9DCE9A3C-56D5-45D3-A6FD-2970FA9D503A

Tiffany Chao
 Santa Clara Valley Water District
 November 3, 2023
 Page 12

recommence until CDFW provides further guidance, which may include an additional survey by a bumble bee expert, waiting until the colony active season ends, other actions such as establishment of appropriate buffers, or Valley Water obtaining take authorization if take cannot be completely avoided.

A4-35
 cont.

Mitigation Measure #4: Crotch's Bumble Bee Avoidance or Take Authorization

Crotch's bumble bee was detected during the July 2022 survey within the Seismic Retrofit project area; therefore, presence is assumed, and a Crotch's bumble bee avoidance plan shall be developed and provided to CDFW for review prior to work activities involving ground disturbance or vegetation removal within that portion of the Project area. If Crotch's bumble bee are detected during pre-construction surveys within other areas of the Project, an avoidance plan shall also be developed and provided to CDFW for review prior to work activities involving ground disturbance or vegetation removal in those areas.

A4-36

If full take avoidance is not feasible, CDFW strongly recommends that the EIR state that Valley Water will apply to CDFW for take authorization under an ITP (pursuant to Fish and Game Code 2081(b)).

Mitigation Measure #5: Compensatory Mitigation for Impacts to Native Pollinator Species Habitat

Permanent and/or temporary loss of occupied or suitable nesting and/or foraging habitat for Crotch's bumble bee shall be mitigated with protection in perpetuity of the same type and quality (or higher quality) of habitat at a sufficient ratio to completely offset the loss. Other biologically effective and beneficial minimization measures shall be developed in consultation with CDFW. Mitigation lands shall be protected under a recorded conservation easement approved by CDFW, and an endowment shall be established to ensure long-term management of mitigation lands. Impacts to nesting and/or foraging habitat for other native pollinator species shall also be compensated through protection of the same type and quality of habitat.

A4-37

COMMENT #7: Chapter 3, Section 3.5 Biological Resources – Wildlife and Terrestrial Resources, Impact TERR-1e: Bald Eagle (*Haliaeetus leucocephalus leucocephalus*) and Golden Eagle (*Aquila chrysaetos*)

Issue: The draft EIR states that the Seismic Retrofit construction will impact foraging habitat for bald eagles (*Haliaeetus leucocephalus leucocephalus*) and golden eagles (*Aquila chrysaetos*), which are known to nest near Anderson Reservoir. Some activities may potentially occur within the U.S. Fish and Wildlife Service's (USFWS) recommended buffers for these eagles, and the draft EIR states "construction activities could therefore cause the abandonment of an active nest with eggs or young, or a reduction in productivity (e.g., if disturbance reduces foraging time or efficiency and

A4-38

Attachment A

Attachment C

Attachment D

Response to Comment A4-1

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A4-2

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A4-3

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A4-4

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A4-5

This comment summarizes the proposed Project description. It does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A4-6

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A4-7

The EIR describes the Project objectives in Section ES.5.1, *Project Objectives*, as they relate to FAHCE. The objectives of the Project are to satisfy FERC and DSOD dam safety requirements, and “3. Avoid and minimize environmental effects of construction and operations.” (Final EIR pages ES-11 and 2-13)

To attain objective 3, the ADSRP incorporates all FAHCE Phase 1 flow and non-flow measures as Project components and Conservation Measures because best available scientific information supports these measures to avoid, minimize and offset Project impacts on steelhead. These measures include:

- Modifications to reservoir operations to provide instream flows that provide better aquatic habitat conditions suitable for steelhead and other native fish;
- Restoration measures to improve habitat conditions and provide fish passage; and
- Long term monitoring and adaptive management of Coyote Creek aquatic habitat.

Consistent with the FAHCE program, these measures improve aquatic spawning and rearing habitat and fish passage for migration within the Coyote Creek Watershed. They are consistent with the FAHCE *Settlement Agreement* overall management objectives to restore and maintain healthy steelhead populations as appropriate to each of the Three Creeks by providing suitable spawning and rearing habitat, and adequate passage for adults to reach that habitat and for juvenile out-migration. In addition, Section 2.10 of the Final EIR on page 2-130 has been revised to specifically indicate that the Project and FAHCE AMP is designed to satisfy FAHCE commitments for Coyote Creek:

Implementation of the Project and FAHCE AMP is designed to satisfy the measurable objectives defined in the FAHCE Settlement Agreement and the FAHCE Program commitment and overall conservation objective to restore and maintain a healthy steelhead trout and salmon population in the Coyote Creek watershed, by providing: (A) suitable spawning and rearing habitat within Coyote Creek (consisting of approximately five miles of spawning and rearing habitat below Anderson Dam and in Upper Penitencia Creek); and (B) adequate passage for adult steelhead trout and salmon to reach suitable spawning and rearing habitat and for out-migration of juveniles. The measurable objectives are designed FHRP, and to assure the long-term management and effectiveness of Project CMs to benefit steelhead and Chinook salmon as defined by the FAHCE Program commitment.

Response to Comment A4-8

Please see Response to Comment A4-7. In addition, all Coyote Creek components of the FAHCE *Settlement Agreement* are reflected by Objective 3: “Avoid and minimize environmental effects of construction and operations” (Final EIR pages ES-11 and 2-13) provided in Section ES.5.1, *Project Objectives*, and Section 2.3.2, *Project Objectives*.

Response to Comment A4-9

Please see Response to Comment A4-10.

Response to Comment A4-10

See *Master Response 1 – Alternative Designs for Ogier Ponds* for detailed discussion. The alternatives analyzed in the EIR constitute a range of reasonable alternatives to the Project that can feasibly attain most of the identified Project objectives but would reduce or avoid one or more of the Project’s significant impacts. For the reasons described in Master Response 1 and Response to Comment A1-28, the CDFW Alternative would completely fill and eliminate Ogier Ponds, would result in far greater permanent and construction impacts to the environment, particularly in the pond complex area, and would not provide better ecological functions and services as compared to the proposed Ogier Ponds CM. Therefore, the CDFW Alternative would not be a reasonable alternative to include in the EIR.

The Ogier Ponds CM as Proposed Improves Steelhead Habitat

As discussed in the Final EIR (pages 3.4-95 through 3.4-98) and Master Response 1, technical evaluation indicates that the Ogier Ponds CM as proposed would create and enhance steelhead habitat, improve fish passage, and reduce creek water temperatures. The Ogier Ponds CM would create over 20,000 square feet of steelhead spawning habitat, and over 65,000 square

feet of suitable steelhead rearing habitat, with over 20,000 square feet of shallow water habitat for steelhead fry rearing at typical spring and summer flows of approximately 30-50 cfs, with additional side channels and refugia created in the floodplain over time as the area establishes.

For the reasons described in the discussion of Impact FR1a (Final EIR pages 3.4-79 through 3.4-118), while the Project would result in impacts on steelhead from Seismic Retrofit construction, CM construction, construction phase and post-construction phase monitoring programs, and construction and post-construction phase dam and channel maintenance activities, these impacts would be avoided and minimized with implementation of VHP conditions, AMMs, and BMPs; impacts would be less than significant; and would be fully offset by implementation of the habitat restoration provided by Ogier Ponds CM as proposed, the Sediment Augmentation Program, Phase 2 Coyote Percolation Dam CM, Post-Construction Instream Flow Operations, and Project and FAHCE AMP.

The Ogier Ponds CM as Proposed Improves Habitat for Fish Listed as California Species of Special Concern

Several fish listed as California Species of Special Concern occupy Coyote Creek and would benefit from the implementation of the Ogier Ponds CM as proposed. As discussed in the Section 3.4.4 of the Final EIR (pages 3.4-95 through 3.4-98), technical evaluation indicates that the Ogier Ponds CM as proposed would create and enhance spawning and rearing habitat, improve fish passage, and reduce creek water temperatures. The Ogier Ponds CM would provide increased spawning and rearing habitat for Chinook salmon. Based on habitat criteria for Chinook salmon that are less stringent than criteria for steelhead, it is predicted that the habitat goals developed for steelhead (including 20,000 square feet of spawning habitat, 65,000 square feet of juvenile rearing habitat, and 20,000 square feet of fry rearing) would increase spawning and rearing habitat for Chinook salmon in a similar fashion. As a result, for the reasons described in the discussion of Impact FR1b (page 3.4-140), while the Project would result in certain construction phase impacts on Chinook salmon as a result Seismic Retrofit construction, construction of CMs, construction phase and post-construction phase monitoring programs, and construction and post-construction phase dam and channel maintenance activities, these impacts would be avoided and minimized with implementation of VHP conditions, AMMs, and BMPs, impacts would be less than significant, and would be fully offset by implementation of the habitat restoration provided by Ogier Ponds CM as proposed, the Sediment Augmentation Program, Phase 2 Coyote Percolation Dam CM, Post-Construction Instream Flow Operations, and Project and FAHCE AMP.

Similarly, for the reasons described in the discussion of Impacts FR1c through FR1e (pages 3.4-140 to 3.4-177), the Project would result in certain impacts to Pacific lamprey, Sacramento hitch, and Southern Coastal roach as a result Seismic Retrofit construction, construction of CMs, and construction and post-construction phase dam and channel maintenance activities. However, these impacts would be avoided and minimized, and would be less than significant in the short term. Implementation of the habitat restoration provided by Ogier Ponds CM as proposed, together with implementation of other VHP conditions and AMMs, BMPs and other habitat restoration CMs and Post-Construction Instream Flow Operations would result in long-term benefits to these species' population and habitat.

The Ogier Ponds CM as Proposed Increases and Enhances CDFW Jurisdictional Waters

As generally explained in the Final EIR (pages 3.5-187 to 3.5-189), the Ogier Ponds CM as designed, together with the Sediment Augmentation Program, maintenance of the North Channel and Live Oak Restoration Reach, create, restore and provide for a net gain in CDFW jurisdictional waters and enhancement of ecological functions and services of CDFW jurisdictional waters within the Coyote Creek Watershed. More specifically (as also described in Response to Comment A1-28), the Project would result in a net gain in CDFW-jurisdictional waters of approximately 10.22 acres (28.22 acres excluding the permanent reduction in reservoir land cover) owing to the extensive creation and restoration of perennial stream, coastal and valley freshwater marsh, and riparian habitat types that would result from the Ogier Ponds CM. The Project as a whole would result in a net loss of reservoir open water (approximately 18.0 acres) and pond open water (2.32 acres) habitat, but, by design, the Ogier Ponds CM provides a net increase in perennial stream (10.54 acres), coastal and valley freshwater marsh (0.34 acre), and riparian (19.75 acres) land cover types.

Also, the riparian habitat restored by the Ogier Ponds CM would have higher ecological functions and services than much of the impacted riparian habitat because much of the impacted riparian habitat at the Ogier Ponds consists of narrow stringers of riparian trees along the edges of Ponds 1 and 2, or riparian habitat around Pond 5 that is not in-line with Coyote Creek. In contrast, the riparian habitat that would be restored by the Ogier Ponds CM would include a broad, diverse corridor of riparian habitat that is immediately adjacent to the realigned creek channel and that therefore both benefits the channel (providing shade, woody debris, and organic material to the creek) and receives benefits from the channel (e.g., in the form of insects that hatch in the creek and are then fed on by terrestrial riparian animals).

Overall, the net gain in riparian and other higher ecological function and service habitat types, combined with the reduction in reservoir open water habitat, provides overall enhancement to the Coyote Creek Watershed. The enhancement of the watershed is increased further by implementation of the Ogier Ponds CM in combination with the implementation of the Sediment Augmentation Program, and the maintenance of the Live Oak Restoration Reach and North Channel (with its wetland bench), and implementation of the Post-Construction Operation Instream Flows and the Project and FAHCE AMP. In addition, Valley Water also proposes to provide compensation for impacts to CDFW jurisdictional waters through payment of permanent VHP impact fees, in accordance with VHP requirements, for all land cover types that constitute CDFW jurisdictional waters. Valley Water would pay all applicable VHP permanent impact fees, including specialty fees for wetlands, streams, ponds, and riparian habitats, for all Project components, as required by the VHP.

Overall, the Ogier Ponds CM as designed together with other CMs and Project components designed to enhance ecological functions and services of CDFW jurisdictional waters within Coyote Creek constitute sufficient avoidance and minimization to reduce ADSRP impacts to fisheries, CDFW jurisdictional waters, and related sensitive species to a level that is less than significant and restore and enhance these habitat types within the Coyote Creek watershed. Accordingly, the filling of all six of the existing ponds within the Ogier complex and the creation of a much larger floodplain is not necessary from a biological perspective or under CEQA to address adverse effects of the Project.

The CDFW Alternatives Result in Greater Construction Impacts Without Increased Post-Construction Benefit to Sensitive Habitats and Species

As described in Master Response 1, the CDFW Alternative is not necessary to achieve the goals of the Ogier Ponds CM, yet that alternative would impact 2-3 times the jurisdictional wetlands, waters, and riparian habitats of the Project; would have greater impacts on recreation; would necessitate 2-3.5 times the volume of fill as the Project; and would cost considerably more than the Project. Instead of filling only Pond 1, the suggested CDFW Alternative would completely fill and remove Ponds 1 through 6 to provide room for a larger floodplain than is included in the Ogier Ponds CM. The CDFW Alternative would require vegetation removal and excavation of approximately 300 acres of high-quality riparian woodland and grassland habitats to produce the fill needed to fill Ponds 1 through 6, as compared to the disturbance of approximately 19 acres of riparian habitat and 18 acres of open water to create the proposed CM. Based on the increased grading needed for construction of the CDFW Alternative, the CDFW Alternative would result in much greater environmental impacts to air quality, noise, water quality, and biological resources than the Ogier Ponds CM. In addition, the CDFW Alternative would create considerably greater impacts on recreation than the proposed Ogier Ponds CM. While the proposed Ogier Ponds CM would be consistent with the County Parks Coyote Parkway INRMP, including the Perry's Hill recreational complex, the CDFW Alternative would conflict with the INRMP by eliminating all six ponds and related recreational values, and excavating Perry's Hill in its entirety. Based on the alternatives considered and the associated analysis done by Valley Water for the proposed Ogier Ponds CM and alternatives, Santa Clara County supports Valley Water's recommendation of the Ogier Ponds CM or the Ogier Ponds Alternative because both alternatives separate the creek from the ponds, provide existing pond habitat, and minimize impacts to existing recreation while allowing for future recreational opportunities.

As explained in more detail in Master Response 1, although far more impactful to the environment, the much wider floodplain created by the CDFW Alternative adjacent to Coyote Creek would not substantially improve ecological functions and services within the watershed as compared to the proposed Ogier Ponds CM because the majority of this expanded floodplain area would not be wetted by overflow flows from the creek during most years.

The suggestion in the comment that the impacts of the Project must be analyzed and mitigated in accordance with floodplain restoration goals calculated as acre-days of flood flow produces an inaccurate assessment of ADSRP impacts and required mitigation. More specifically, the CDFW Alternative's floodplain restoration goals (from Gard 2023) calculated the floodplain inundation under current topography in the reach of Coyote Creek near Ogier Ponds for a variety of flows, and then used the flow record from the Madrone gage to assess how frequently those flows occurred pre-1950 and since Anderson Dam construction. CDFW then multiplied the total floodplain acreage for a given flow by how many days per year that flow occurred prior to 1950 (which is referred to as "unimpaired") and since 1950. CDFW assumes that the flow frequency under current conditions, past conditions, and future conditions would be the same. Gard (2023) did not include the effect of very different water conditions now present in baseline conditions as compared to historical conditions that have been modified over time by anthropogenic and natural occurrences, including climate change, nor did Gard (2023) take into account an appropriate existing (rather than historical) conditions baseline (See Master Response 2), effects of gravel augmentation on raising channel bed elevation, or effects of the Post-Construction Operations instream flows or Geomorphic Flows Plan, all which are Project components expressly intended to increase floodplain inundation, although it is not

feasible to increase inundation to the extent recommended. Overall, the proposed Ogier Ponds CM has much less adverse environmental impacts than the CDFW Alternative, and the CM as proposed, together with other habitat restoration and maintenance CMs, gravel augmentation, Post construction Operations and geomorphic flows are more than sufficient to address the adverse impacts of the Project on jurisdictional resources within Coyote Creek.

Response to Comment A4-11

The Live Oak Restoration Project design and construction is part of FOCP and not part of the Project. This comment does not raise a significant environmental issue related to the effects of the Project or EIR adequacy, or effects of the Project, including CMs, on Coyote Creek fisheries or habitat. No further response is required for CEQA compliance.

However, in response to CDFW comments in Attachment D to their letter regarding installation of large woody debris in the Live Oak Restoration Project, Valley Water notes that the citation that CDFW provides for appropriate LWD density (Napolitano 2014) is based on observations of LWD frequency in Lagunitas Creek, which is a redwood dominated coastal watershed, and a very poor analogue for Coyote Creek. Nevertheless, as a part of the Live Oak Restoration Reach Project (under FOCP and maintained through the Project), Valley Water has added more LWD to the 90 percent designs and continues to increase habitat complexity to the extent feasible while balancing flood risk and risk to the public within a County Park.

With respect to other recommendations for the Project set forth in Attachment D, please see Response to Comments A4-63 through A4-72. With respect to the recommendation to fully evaluate the proposed alternatives for the Ogier Pond Conservation measure, please refer to Master Response 1, and Response to Comments A1-28, A4-10, and A4-44 through A4-72.

Also, the comment recommends that the EIR “pursue and further develop” CM alternatives that maximize steelhead benefits. Valley Water assumes this comment pertains to alternatives for the Ogier Ponds and Live Oak Restoration Reach CMs, which are addressed above in Response to Comment A4-10 and in this response, respectively.

Response to Comment A4-12

Valley Water plans to coordinate with CDFW engineering staff and other resources agencies through the TWG on design of the Phase 2 Coyote Percolation Dam CM. This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A4-13

The Phase 2 Coyote Percolation Dam CM is still in the design phase but is being designed in collaboration with CDFW engineering staff and other resources agencies through the TWG to comply with NMFS and CDFW fish passage criteria over the range of NMFS and CDFW-approved design flow conditions for native migratory fish including steelhead and Pacific lamprey (see Final EIR Table 2-1).

Response to Comment A4-14

The ADSRP is explicitly described in the VHP as a covered activity, so statements such as “The Project is a covered activity under the Santa Clara Valley Habitat Plan” (Final EIR page ES-21) are not incorrect. However, while the Project is generally a covered activity, there are some highly specific Project components that are not covered because they exceed certain thresholds described for the ADSRP in the VHP, and there are certain biological resources (e.g., fish and baylands species) that are not designated as “covered species” for which take is authorized by the VHP. Because the biological resources that are explicitly covered by the VHP are all discussed in the Final EIR in Section 3.5, that is where the Final EIR discusses (e.g., on pages 3.5-62 through 3.5-64) the Project components and impacts on wildlife and terrestrial biological resources that are not covered by the VHP.

Response to Comment A4-15

The EIR does clearly describe the Project components and impacts not covered by the VHP. Because the biological resources that are explicitly covered by the VHP are all discussed in Section 3.5, that is where the EIR discusses (e.g., on pages 3.5-62 through 3.5-64) the Project components and impacts on wildlife and terrestrial biological resources that are *not* covered by the VHP. Within the impact section for each species or group of species, or each sensitive habitat, in Section 3.5.4 and Section 3.5.5, the *Significance Conclusion Summary* discusses which impacts to that resource are and are not covered by the VHP, and any mitigation that is necessary to reduce impacts on a biological resource to less than significant levels is discussed after that *Significance Conclusion Summary*.

Please also refer to Master Response 3, which discusses the impacts on wildlife and terrestrial biological resources that are not covered by the VHP.

Response to Comment A4-16

The FHRP is Appendix A of the FAHCE Final Program EIR (Valley Water 2023a). The FAHCE AMP is Chapter 6 of the FHRP (Appendix A). There is no need to add additional volume to the ADSRP EIR by including the FHRP as an appendix, since it is already a publicly-available appendix to the FAHCE EIR. The text on page 1-10 of the Final EIR has been corrected to reflect the proper cross reference to the FHRP:

Valley Water has prepared a FHRP to comprehensively implement the FAHCE *Settlement Agreement* (see Appendix A of the FAHCE Final EIR (Valley Water 2023) B for portions of the FHRP applicable to Coyote Creek), including the creek management objectives and all measures approved by the Technical Advisory Committee for Coyote Creek.

As noted on Final EIR page 1-10, the ADSRP Project description includes all Coyote Creek Phase 1 flow and non-flow measures, and the EIR evaluates the impacts of all these measures, as well as related monitoring, maintenance, and potential adaptive actions related to these measures. Because Coyote Creek measures are the same in both projects (though some are described in greater detail in the ADSRP EIR), there is no potential for the types of discrepancies that are suggested by the comment.

Response to Comment A4-17

Please see Response to Comment A4-16. Since all FAHCE Coyote Creek measures are included in the ADSRP Project description as either Project components or Conservation Measures, there is no potential for the types of conflicts or discrepancies that are suggested by the comment, and the recommended table with clarifications is unnecessary.

Response to Comment A4-18

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A4-19

In response to this comment, under *Phase 2 Coyote Percolation Dam and Fish Ladder Operations Plan* in Table 2-1 in Section 2.4 on page 2-25 under of the Final EIR has been revised as follows:

Guidance for operational activities would be developed in coordination with the TWG, and post-construction operations would be adaptively managed in consultation with the Post-Construction and Project FAHCE AMT NMFS.

Response to Comment A4-20

This comment regarding the status of pallid bats in the Project area and the EIR's impact analysis reiterates the impact summary from the Draft EIR. This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A4-21

Valley Water acknowledges that modifications to Mitigation Measures TERR-1h(1) through TERR-1h(4) in the Draft EIR can be made per this commenter's recommendations to improve those measures, and those edits have been made as discussed in Response to Comments A4-22, A4-23, and A4-25 below. However, none of these recommendations represent new feasible measures; they represent modifications of the measures already identified in the Draft EIR. Nevertheless, based on CDFW's recommendation that these modifications to existing measures identified in the Draft EIR would further reduce ADSRP impacts to pallid bats, Valley Water has revised the mitigation measures as set forth in the responses below.

H. T. Harvey & Associates and Valley Water biologists, led by pallid bat expert Dave Johnston, have been surveying the pallid bat colony in the Cochrane Road barn since 1998. Valley Water will continue conducting annual surveys of the pallid bat colony during FOCF and ADSRP construction to monitor numbers of bats in the colony. Specifically, the following text has been added to a new Section 2.7.7, *Terrestrial Animal Monitoring*, on Final EIR page 2-110:

Annual surveys for pallid bats roosting in the Cochrane Road barn, which include a survey on a warm June evening to count the number of adult females exiting the maternity roost, would continue to be conducted throughout Seismic Retrofit construction.

Further, as discussed in Mitigation Measure TERR-1h(4), Valley Water would conduct surveys to monitor any alternative roosts constructed for pallid bats, and the existing Cochrane Road barn, for up to 3 years following completion of Seismic Retrofit construction to determine use by bats.

The comment mentions that pallid bats may roost in tree hollows, rock crevices, mines, caves, and man-made structures. Surveys of pallid bats in the Anderson Dam vicinity by Dave Johnston since 1998 have not found any evidence that there is a maternity roost present outside the Cochrane Road barn. Although male pallid bats may roost in other locations, as discussed in Impact TERR-1h (on page 3.5-149 of the Final EIR), males are likely to be spread out among multiple roosts, containing smaller numbers of individuals, over a large area. As a result, conducting pre-Project or post-Project surveys for pallid bats away from the Cochrane Road barn is infeasible, and given the large number of roost locations for male pallid bats in the Project vicinity, conducting such surveys is not necessary to further reduce impacts on pallid bats, and would not inform mitigation efforts.

The recommendation in this comment to have a survey methodology plan prepared for CDFW review and approval does not add anything substantive to the survey and monitoring effort that is ongoing or proposed, it simply adds CDFW oversight and approval of that effort. CDFW approval of the survey methods described in Mitigation Measures TERR-1h(1) through TERR-1h(4) would not further reduce impacts on pallid bats.

This bat roost exists in a barn on private property, and surveys can be conducted only with permission of the landowner. Results of surveys will be reported to the databases recommended by this comment, only with landowner permission, noting that such permission is required to maintain access to the barn for surveys.

Response to Comment A4-22

Mitigation Measures TERR-1h(1) through TERR-1h(4) describe the feasible mitigation measures that would avoid, minimize, and if necessary compensate for impacts on pallid bats. These mitigation measures are, with minor edits as described in comments below, adequate to describe the Project's feasible and appropriate avoidance, minimization, and compensatory mitigation efforts, and preparation of a Bat Mitigation and Monitoring Plan, which is requested by this comment, is unnecessary. Nevertheless, per this comment, the text of Mitigation Measure TERR-1h(1) has been revised to include installation of fencing or other appropriate devices in the vicinity of the Cochrane Road barn to enforce the buffers identified in that measure, thus minimizing construction disturbance. The following sentence has been added to Mitigation Measure TERR-1h(1) on page 3.5-155 of the Final EIR:

Fencing or other appropriate materials shall be placed around the Cochrane Road barn to indicate to construction personnel the limits of the buffers listed above.

As discussed in Response to Comment A4-21 above, surveys of pallid bats in the Anderson Dam vicinity by Dave Johnston since 1998 have not found any evidence that there is a maternity roost present outside the Cochrane Road barn. Although male pallid bats may roost in other locations,

as discussed in Impact TERR-1h (on page 3.5-149 of the Final EIR), males are likely to be spread out among multiple roosts, containing smaller numbers of individuals, over a large area. As a result, installation of fencing or other materials to establish buffers around pallid bat roosts other than the Cochrane Road barn is unnecessary (for maternity roosts) and infeasible and unnecessary for individual roosting males.

In addition to the measures set forth in the comment, Mitigation Measures TERR-1h(1), 1h(2), and 1h(4) require CDFW consultation prior to any reduction in buffers, during the determination of whether bat eviction is necessary, regarding the methods of any bat eviction, and regarding the design and location of any alternative roost structures. Such decisions will need to be made based on the specific activities being performed at the time, results of monitoring surveys, and observations of on-site biologists (as described below) and would be more effectively implemented with CDFW coordination as the Project is being implemented rather than specifying them in a Bat Mitigation and Monitoring Plan. In other words, pursuant to Mitigation Measures TERR-1h(1) through TERR-1h(4), to best minimize impacts on this roost, construction-phase coordination with CDFW is anticipated to occur.

Per this comment, Mitigation Measure TERR-1h(1) has been revised to include the following text at the end of the mitigation measure on page 3.5-155 of the Final EIR:

A biological monitor will observe the Cochrane Road barn during initial activities conducted within the buffers described above, and periodically (weekly or more frequently) during Seismic Retrofit construction to determine whether there is any evidence that the colony is being disturbed by construction activities. If the biological monitor observes any such evidence of disturbance, the monitor will notify a qualified biologist who would determine (in consultation with CDFW) whether any feasible measures, such as increased buffers, can be implemented to avoid or reduce disturbance.

Response to Comment A4-23

Mitigation Measure TERR-1h(3) describes the proposed methods to minimize impacts on pallid bats roosting outside the Cochrane Road barn, such as in trees. Edits have been made as follows to incorporate other recommendations in this comment concerning minimizing impacts to pallid bats roosting in trees:

TERR-1h(3) Minimize Impacts on Pallid Bats Roosting Outside the Cochrane Road Barn

Although the Cochrane Road barn is the center of activity for the female pallid bats associated with this roost, males likely roost during the day in smaller groups (or singly) in other locations nearby, and females may day-roost in other locations as well, particularly during the nonbreeding season. In addition, pallid bats could roost in trees outside the Seismic Retrofit Area, such as in the Conservation Measure Project Area. Because pallid bats may use a variety of such nonbreeding day-roosts, it is unknown which roosts may be occupied by pallid bats when Project activities disturb various locations. Therefore, Valley Water will implement measures during construction to minimize the likelihood of injury or mortality of individual pallid bats using roosts other than the Cochrane Road barn.

Prior to removal of any trees greater than 8 inches in diameter at breast height, a qualified biologist retained by Valley Water will inspect trees identified for removal for cavities, or crevices, or deep bark fissures that may be suitable for use by roosting pallid bats. If any trees contain such features, potential for bat presence will be presumed. All suitable roost trees will be identified and removed over a 2-day period under the supervision of a qualified biologist according to the following procedures. On the first day, the trees will be limbed but not entirely removed. In the afternoon, chainsaws will be used to remove tree limbs that do not contain suitable bat roosting habitat (e.g., cavities, crevices, and deep bark fissures); the disturbance and modification of the tree will discourage any bats roosting within from returning to the roost the next morning. On day 2, the rest of the tree with suitable roosting features will can be removed.

Similarly, prior to activities involving physical impacts on rock outcrops providing crevices suitable for roosting pallid bats, a qualified biologist will inspect the outcrops to identify suitable crevices. Depending on the locations and dimensions of the crevices, the qualified biologist will identify the most suitable means of encouraging bats to leave the crevices before rock outcrops are removed or destroyed. Examples of measures may include removal of portions of the outcrop, so that the disturbance and modification of the roost site discourages bats from returning once they have departed the roost; using bright, portable lights to illuminate the crevices, discouraging bats from returning to the crevices once they have exited; or installation of one-way doors in the crevices. Such measures will be implemented under the supervision of a qualified biologist.

Removal of potentially suitable bat roosting trees and eviction of bats from rock outcrops will not occur under unfavorable weather conditions (i.e., when nighttime temperatures are below 45°F or when it is rainy) and will occur outside the April 1-August 31 maternity season unless a qualified biologist surveys the trees or outcrops and determines that no maternity roost is present.

Similar preactivity surveys will be performed prior to any work within 120 feet of potential roost trees or rock outcrops for operation of heavy equipment; 150 feet for trenching; 250 feet for idling equipment or generators; 250 feet for shielded lighting; and 400 feet for unshielded lighting. Such surveys will be conducted by a qualified biologist within 2 weeks prior to the initiation of these activities near mature trees or structures that could provide suitable roost sites. If active pallid bat roosts are detected, the buffers, as described above, will be maintained during the maternity season. Outside the maternity season, the bats will be evicted under the direct supervision of the qualified biologist.

The recommendation to conduct the assessment at least 6 months prior to construction is impracticable, as monitoring this early is not necessary for effective mitigation. The avoidance and minimization measures to be implemented if a tree or rock outcrop is found to provide suitable roosting habitat would be just as effective, and potentially even more accurate, just prior to tree removal or construction as they would be 6 months in advance. Also, roosting habitat for large bats such as pallid bats is not expected to be provided by smaller trees, so Valley Water is retaining the specification that only trees greater than 8 inches in diameter at breast height (i.e., those large enough to possibly contain cavities or crevices that may be used by pallid bats) need to be assessed for their potential use by roosting pallid bats. Realistically, 8-

inch diameter trees have a low probability of supporting roosting pallid bats, so this approach is conservative.

Valley Water does not agree that tree removal must be restricted to the narrow windows (March 1 through April 15 and September 1 until October 15) recommended in this comment to effectively reduce impacts to roosting bats. The vast majority of trees to be removed by the Project do not provide features that could support a maternity colony or large winter roost of bats, and as long as the trees are assessed by a qualified biologist and removed under appropriate weather conditions, and trees supporting a maternity colony would be identified in preconstruction surveys and are avoided during the maternity season, no injury or mortality of bats, or loss of a maternity roosts, will occur. Text has been added to Mitigation measure TERR-1(h)(3) above to indicate that removal of potentially suitable bat roosting trees and eviction of bats from rock outcrops will not occur during unfavorable weather conditions, and that these activities will not occur during the maternity season unless a qualified biologist determines that no maternity roost is present, which will achieve the same intent as the commenter's recommended work windows.

Response to Comment A4-24

While pallid bats are not listed as endangered or threatened, Mitigation Measure TERR-1h(4) describes compensatory mitigation that will be provided if construction activities cannot comply with the buffers described in Mitigation Measure TERR-1h(1), if bats are evicted from the barn, or if the number of bats using the roost drops to numbers described in Mitigation Measure TERR-1h(4). Mitigation Measure TERR-1h(4) indicates that the design and location of the mitigation roost structure will be determined by a qualified biologist in consultation with CDFW, but this has been further clarified with the addition of the following sentence to the end of the first paragraph on page 3.5-157 of the Final EIR:

The design and location of any alternative bat roost will be determined by the qualified biologist in coordination with CDFW.

The purpose of the mitigation roost structure would be to compensate for the loss of the barn roost, which serves as a high-quality maternity roost and a nonbreeding-season roost. Valley Water intends to avoid and minimize impacts to tree or rock outcrop roosting habitat by preconstruction surveys and imposition of buffers, and therefore does not propose to mitigate the loss of any potential tree or rock outcrop roost habitat. No trees or rock outcrops that would be lost as a result of the Project provide such high-quality roost sites that compensation is necessary. Rather, to the extent that any trees or outcrops that would be impacted by the Project are used by roosting bats, those features represent a very small proportion of locally and regionally available habitat of that type, and no compensation is necessary.

Response to Comment A4-25

In response to this comment, Mitigation Measure TERR-1h(1) on page 3.5-154 has been revised to include the following:

- All light-emitting diodes (LEDs) or bulbs installed for Project construction or operation will be rated to emit or produce light at or under 2700 Kelvin unless higher-Kelvin lighting is necessary for the particular activity being performed.

Response to Comment A4-26

Valley Water has already installed and will maintain fencing (taller than 3.5 feet) with screening around the Cochrane Road barn to reduce light from vehicles from reaching the barn. No further screening would reduce lighting effects on that colony of bats.

Response to Comment A4-27

Retro-reflectivity of signs and road striping for this Project would not reduce the need for lighting or Project effects on bats during construction and are unnecessary. Construction haul roads and access roads would be surfaced with aggregate base and therefore striping would not be possible during construction. The resurfacing of Cochrane Road, including striping and signage, adjacent to the bat colony, is determined by Santa Clara County Roads and Airports standards. Lighting of construction areas would be performed in accordance with Cal-OSHA requirements for worker safety.

Response to Comment A4-28

Mitigation Measure TERR-1h(1) includes the statement “Lighting will be directed away from the barn and designed to minimize any increase in lighting around the barn.” This measure applies to all sources of illumination, not just to light poles, and additional analysis of lighting and light pole placement is not necessary to reduce Project impacts on bats. Nevertheless, Mitigation Measure TERR-1h(1) has been revised as follows on page 3.5-154 of the Final EIR to include recommendations from this comment as examples of how lighting might be designed to minimize increases:

Lighting, both for construction and Project operations, will be directed away from the barn and designed to minimize any increase in lighting around the barn. Examples of design features that may be implemented to minimize lighting increases include shielding of lights, adaptation of light pole arm length and mast height to site-specific conditions, and placing light poles at non-standard intervals.

Mitigation Measure AES-3 requires shielding of construction lighting to minimize light trespass outside of work areas. Mitigation Measure AES-3 has been revised on page 3.1-63 of the Final EIR as follows to ensure that shielding and direction of lighting minimizes lighting impacts on sensitive habitats:

Installing light shields will minimize the amount of nuisance light that is visible from public roadways throughout the Project Area and the amount that illuminates sensitive habitats and natural lands outside of the construction area. Direct lighting will also be focused downward or oriented such that the light sources are not directed toward nearby public roadways and motorists, or toward sensitive habitats and natural lands outside of the construction area.

Response to Comment A4-29

The conclusion that only low numbers of individual Crotch’s bumble bees may be impacted by the Project is not based on the results of a single survey as suggested by the comment. In accordance with the CDFW-approved *FOCP Crotch’s Bumble Bee Avoidance Plan*, CDFW-

approved Qualified Biologists conducted the following surveys and did not detect any Crotch's bumble bees:

- In July and August of 2024, Valley Water conducted a series of Crotch's bumble bee surveys for 2-18 investigation work along the rim of the reservoir (southern portion), carefully inspecting 400 or more bumble bees.
- In August 2024, H. T. Harvey & Associates conducted Crotch's bumble bee surveys prior to geotechnical investigations around the dam and spillway.
- Throughout 2024, Sequoia Ecological Consulting (Sequoia) and Environmental Science Associates (ESA) conducted many hours of Crotch's bumble bee surveys and biological monitoring for FOCF construction.

Also, in 2023, before the *FOCF Crotch's Bumble Bee Avoidance Plan* was approved, ESA conducted Crotch's bumble bee surveys per the LSAA for the Anderson Dam Tunnel Project, which were followed by biological monitoring by ESA and Sequoia, with no Crotch's bumble bees detected.

Steve Rottenborn, who observed the Crotch's bumble bee in the bed of Anderson Reservoir referred to in this comment, and Valley Water senior biologist Shawn Lockwood, have both spent several hundred hours conducting formal surveys (i.e., California Bumble Bee Atlas surveys, which follow a protocol similar to that recommended by CDFW for conducting surveys for Crotch's bumble bees) and informal surveys for bumble bees throughout much of Santa Clara County during the entire flight season of the Crotch's bumble bee. Several other Valley Water biologists have similarly conducted bumble bee surveys throughout much of the county during that time. With the exception of a concentration of Crotch's bumble bees at one location in North Coyote Valley in late July and early August 2023, these biologists' observations of Crotch's bumble bees at approximately 15 locations have found only small numbers of individuals at any one location. Especially in comparison to the abundance of other bumble bee species such as *Bombus vosnesenskii*, the abundance of Crotch's bumble bee in the region is relatively low. The EIR acknowledges that Crotch's bumble bee could be present in the Seismic Retrofit and Conservation Measures Project areas, but based on all available information on this species' distribution and abundance in the Project vicinity, which consists of quite a bit more data than that provided by a single mid-summer survey, there is no evidence that large numbers of individuals are present in these areas. Further, CDFW has not provided any evidence in this comment or elsewhere that large numbers of Crotch's bumble bees would be impacted by the Project.

Response to Comment A4-30

Please refer to Response to Comment A1-41. Valley Water maintains its conclusion that Project impacts on the Crotch's bumble bee are less than significant, as discussed in the EIR under Impact TERR-1b and in Master Response 3, and therefore no mitigation measures are necessary. Please see Response to Comment A1-41 for further explanation. Nevertheless, as described in Response to Comment A1-41, Section 2.7.7, *Terrestrial Animal Monitoring*, has been added to the Final EIR to indicate that Valley Water would implement the *FOCF Crotch's Bumble Bee Avoidance Plan* during ADSRP implementation to avoid take of individuals and active nests, as long as the species is legally protected or unless and until the Crotch's bumble bee is formally added to the VHP as a covered species (at which point Valley Water would comply with all VHP

conditions concerning the species in lieu of implementing the FOC *Crotch's Bumble Bee Avoidance Plan*).

Response to Comment A4-31

The potential Project impacts to the Crotch's bumble bee mentioned in this comment are described in Section 3.5.4 on pages 3.5-105 and 3.5-106 of the Final EIR. The potential for the Project to result in take of this species is low, but that potential and the need for Valley Water to obtain incidental take approval from CDFW if take will occur is discussed on page 3.5-56 of the Final EIR. Authorization would be obtained via an amended VHP or, if not available and if Valley Water determines that take approval is necessary, via a CESA Incidental Take Permit.

Response to Comment A4-32

Valley Water acknowledges that if the Project would result in take of the Crotch's bumble bee, take could be covered by the amended VHP if the VHP amendment is completed prior to initiation of any Project activities likely to result in take of these species (which would likely be the case). Nevertheless, Valley Water proposes to implement the FOC *Crotch's Bumble Bee Avoidance Plan* during ADSRP implementation to avoid take of individuals and active nests as long as the species is legally protected or unless and until the Crotch's bumble bee is formally added to the VHP as a covered species. After amendment of the VHP, Valley Water proposes to implement all VHP conditions related to the Crotch's bumble bee (instead of the measures of the *Crotch's Bumble Bee Avoidance Plan*). In the event take cannot be avoided, which is unlikely, Valley Water would seek take authorization through the amended VHP, or, if not yet available, through an Incidental Take Permit.

Response to Comment A4-33

The FOC *Crotch's Bumble Bee Avoidance Plan*, which would be implemented during ADSRP implementation as long as the species is legally protected or unless and until the Crotch's bumble bee is formally added to the VHP as a covered species (at which point Valley Water would comply with all VHP conditions concerning the species in lieu of implementing the FOC *Crotch's Bumble Bee Avoidance Plan*). The FOC *Crotch's Bumble Bee Avoidance Plan*, includes a habitat assessment component consistent with the recommendations in this comment and with the *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species*³. This assessment does not need to be completed now because prior habitat surveys on the Project site have verified the presence of suitable nesting, overwintering, and foraging habitats in the Project area. Further, conducting additional assessments now, well in advance of commencement of construction, would not be useful for avoiding and minimizing Crotch's bumble bee impacts. Because Crotch's bumble bee habitat conditions (e.g., the locations of small mammal burrows or concentrations of floral resources) can change over time, the habitat assessment described in the *Crotch's Bumble Bee Avoidance Plan* would be performed at the beginning of the colony active period in April each year, and avoidance and minimization measures described in the Plan (or any that might be included in the amended VHP) would then be implemented based on the current locations of suitable habitat features.

³ California Department of Fish and Wildlife. 2023. Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species. July 6.

Response to Comment A4-34

The FOC *Crotch's Bumble Bee Avoidance Plan*, which would be implemented during ADSRP implementation as long as the species is legally protected or unless and until the Crotch's bumble bee is formally added to the VHP as a covered species (at which point Valley Water would comply with all VHP conditions concerning the species in lieu of implementing the FOC *Crotch's Bumble Bee Avoidance Plan*), includes a detailed description of the survey methodology, which is consistent with the recommendations in this comment and based on the *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species*⁴. Valley Water does not propose to capture or handle Crotch's bumble bees during the survey.

Response to Comment A4-35

The FOC *Crotch's Bumble Bee Avoidance Plan*, which would be implemented during ADSRP implementation as long as the species is legally protected or unless and until the Crotch's bumble bee is formally added to the VHP as a covered species (at which point Valley Water would comply with all VHP conditions concerning the species in lieu of implementing the FOC *Crotch's Bumble Bee Avoidance Plan*), includes construction monitoring as recommended by this comment if Crotch's bumble bee nests or adults are detected. Valley Water does not agree that a biologist needs to be present during all construction activities, though, as Crotch's bumble bees are not expected to be impacted in areas that have been highly disturbed such that no potential nesting, overwintering, or foraging habitat remains. If Crotch's bumble bees are determined to be present (e.g., by surveys conducted in accordance with the FOC *Crotch's Bumble Bee Avoidance Plan*), appropriate impact avoidance and minimization measures will be implemented according to the FOC *Crotch's Bumble Bee Avoidance Plan* or any applicable VHP conditions, as long as the species is legally protected and if the species has been added as a VHP-covered species by that time. If Valley Water determines that take cannot be completely avoided by an activity, Valley Water will obtain take authorization pursuant to the VHP if Crotch's bumble bee is covered by the VHP amendment, or pursuant to an Incidental Take Permit if the VHP amendment is not completed. V.

Response to Comment A4-36

The FOC *Crotch's Bumble Bee Avoidance Plan*, which would be implemented during ADSRP implementation as long as the species is legally protected or unless and until the Crotch's bumble bee is formally added to the VHP as a covered species (at which point Valley Water would comply with all VHP conditions concerning the species in lieu of implementing the FOC *Crotch's Bumble Bee Avoidance Plan*), includes take avoidance measures. This Plan has been approved by CDFW. If Valley Water determines that take cannot be completely avoided by an activity, and Crotch's bumble bee is not yet covered by the VHP, Valley Water will obtain take authorization via an Incidental Take Permit. See Final EIR page 3.5-56.

⁴ California Department of Fish and Wildlife. 2023. Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species. July 6.

Response to Comment A4-37

As discussed in the Final EIR in Impact TERR-1b and in Master Response 3, Project impacts on the Crotch's bumble bee are less than significant. Continued implementation of the *Crotch's Bumble Bee Avoidance Plan*, as long as the species is legally protected or unless and until the Crotch's bumble bee is formally added to the VHP as a covered species (at which point Valley Water would comply with all VHP conditions concerning the species in lieu of implementing the FOC *Crotch's Bumble Bee Avoidance Plan*), would avoid and minimize any potential for impacts to the species. The Project's payment of VHP impact fees will contribute to the VHP's conservation program, which benefits the Crotch's bumble bee whether or not the species is formally added to the VHP as a covered species. Continued implementation of the *Milkweed Survey Plan*, as discussed on pages 2-24 and 2-105 of the Final EIR, would also benefit the Crotch's bumble bee; the *Milkweed Survey Plan* includes seeding of milkweed and other bumble bee nectar plants in suitable locations as post-construction revegetation occurs. No additional compensatory mitigation is necessary to avoid or reduce a significant Project impact on the Crotch's bumble bee or other pollinators.

Response to Comment A4-38

This comment regarding the Draft EIR's analysis of impacts on eagles reiterates information in the Draft EIR and does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A4-39

In accordance with the comment, the *Fish and Game Code – Fully Protected Species* portion of Section 3.5.2.2, *State Laws, Regulations, and Policies*, on page 3.5-57 of the Final EIR has been revised as follows:

California statutes afford fully protected status to a number of specifically identified birds, mammals, reptiles, and amphibians. These species cannot be taken, even with an incidental take permit, unless authorized by a NCCP or unless CDFW issues an Incidental Take Permit in accordance with Senate Bill 147 of 2023; that bill authorizes CDFW to issue Incidental Take Permits for implementation of certain types of projects, including maintenance, repair, or improvement projects to critical regional or local water agency infrastructure. See Fish and Game Code Sections 3505, 3511, 4700, 5050, and 5515.

Project applicability: Fully protected species that may be impacted by the Project are bald eagle, golden eagle, California Ridgway's rail, California black rail, salt marsh harvest mouse, white-tailed kite, peregrine falcon (*Falco peregrinus*), and ringtail (*Bassariscus astutus*). The Project incorporates measures to avoid take of these species as defined by the Fish and Game Code. Although the Project meets the criteria for obtaining an Incidental Take Permit for fully protected species per Senate Bill 147, no Incidental Take Permit for fully protected species is expected to be necessary given the implementation of take avoidance measures.

Valley Water has been discussing potential Project impacts to eagles with CDFW and USFWS and will continue to coordinate with these agencies during ADSRP implementation. Mitigation Measure TERR-1e in the Final EIR describes the measures that will be implemented to avoid and minimize disturbance of eagles. Implementation of Mitigation Measure TERR-1e will reduce

project impacts on eagles to less than significant levels and are expected to avoid take of these species.

Response to Comment A4-40

Please refer to Response to Comment A1-20, which discusses why impacts of the Project on the northwestern pond turtle are less than significant even though some Project impacts are not covered by the VHP.

The Phase 2 Coyote Percolation Dam CM is described on page 2-94 of the Final EIR. That activity would install a roughened ramp downstream of and approaching the Coyote Percolation dam. Although the primary purpose of the ramp is to facilitate fish passage over the deflated bladder dam over a range of flow conditions, the ramp would also improve the ability of northwestern pond turtles to move upstream and downstream past the dam. However, such improvements are not necessary for turtle movement past the dam, as turtles can also walk around the dam.

Response to Comment A4-41

Regarding modifications to the Phase 2 Coyote Percolation Dam CM that will benefit passage for the northwestern pond turtle, please refer to Response to Comment A4-40 for a discussion of additional details added to the Project description with respect to this Conservation Measure. However, because the Conservation Measure would improve the ability of turtles to traverse the dam, and because turtles can walk around the dam, no further revisions to the Draft EIR are necessary.

Response to Comment A4-42

All special-status species that are tracked in CNDDDB and detected during Project surveys will be submitted to CNDDDB by Valley Water. Certain special-status species (e.g., mountain lion) and certain life stages of special-status species (e.g., breeding monarch butterfly) are not tracked in CNDDDB; therefore, if detected, these occurrences would not be submitted to CNDDDB, although in accordance with the *FOCP Milkweed Survey Plan*, observations of milkweed and monarchs detected at each FOCP component where milkweed or monarchs are detected will be reported to the Western Monarch Milkweed Mapper. Funding for including sensitive natural communities in CNDDDB was halted in the mid-1990's; therefore, information on sensitive natural communities cannot be submitted to CNDDDB.

Response to Comment A4-43

As the CEQA lead agency for the Project, Valley Water will pay the required environmental document filing fee when it files the Final EIR Notice of Determination with the Santa Clara County Clerk.

Response to Comment A4-44A

This comment concludes the letter and does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A4-44B

The commenter does not provide any detail on its calculation of the floodplain area from Ogier Ponds restoration alternatives ranges from 47 to 149 acres, and therefore, this area is not discussed further. Valley Water agrees Alternatives 3, 4, and 5 require fill in excess of the amount of cut needed to construct the Project. However, Alternatives 2 and 6 require cut in excess of the amount of fill needed to construct the Project.

Response to Comment A4-45

See Master Response 1 and Response to Comment A4-10.

Response to Comment A4-46

See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative.

Response to Comment A4-47

See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative.

Response to Comment A4-48

See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative.

Response to Comment A4-49

See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative.

Response to Comment A4-50

The Ogier Ponds CM as proposed would result in benefits of a restoration project that disconnects a riverine reach from a captured gravel pit, including creation of ecologically critical off-channel slow shallow water floodplain habitats, which provide critical nursery, rearing, and

refuge habitat for juvenile steelhead, as well as habitat for other sensitive native wildlife species, such as northwestern pond turtle, foothill yellow-legged frog, and migrating songbirds and waterfowl. Other benefits of the Ogier Ponds CM include aquifer recharge, flood flow attenuation, public access for recreation, environmental education and wildlife observation, reducing habitat for predators of native fish, halting ongoing riverbed degradation, improving onsite and downstream water quality, stimulating ecosystem productivity, and restoring the structure and function of the riparian corridor. See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative.

Response to Comment A4-51

See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative.

Response to Comment A4-52

See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative.

Regarding potential grant funding, the commenter does not identify any specific grant programs that would apply to the Ogier Ponds alternatives, and Valley Water is unaware of any such grant programs.

Response to Comment A4-53

See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, including details on the additional environmental impacts of the substantial fill required and the proposal from CDFW to excavate material from the adjacent county lands, and why it has substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative.

Response to Comment A4-54

See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative.

Response to Comment A4-55

See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative.

Response to Comment A4-56

See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative. Whether or not phasing is considered in the future, Valley Water has clearly articulated why Alternative 5 is the proposed Project and understands that NMFS and CDFW are supportive.

Response to Comment A4-57

See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative. Whether or not phasing is considered in the future, Valley Water has clearly articulated why Alternative 5 is the proposed Project, and understands that NMFS and CDFW are supportive.

Response to Comment A4-58

See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative.

Response to Comment A4-59

See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative. The CDFW floodplain restoration goals (from Gard 2023) calculated the floodplain inundation under current topography in the reach of Coyote Creek near Ogier Ponds for a variety of flows, and then used the flow record from the Madrone gage to assess how frequently those flows occurred pre-1950 and since Anderson Dam construction. CDFW then multiplies the total floodplain acreage for a given flow by how many days per year that flow occurred prior to 1950 (which is referred to as “unimpaired”) and since 1950. CDFW assumes that the flow frequency under current conditions, past conditions, and

future conditions would be the same. Gard (2023) did not include the effect of gravel augmentation on raising channel bed elevation, post-construction operations flows, or account for the geomorphic flows plan, all which are expressly intended to increase floodplain inundation. Overall, the habitat restoration, gravel augmentation, and geomorphic flows are more than sufficient to address the impacts of the Project on floodplain inundation.

Response to Comment A4-60

See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative. See also Response to Comment A4-59 for technical assumption deficiencies in the Gard 2023 analysis and why habitat restoration, the gravel augmentation, and geomorphic flows are more than sufficient to address the impacts of the Project on floodplain inundation.

Response to Comment A4-61

See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative. See also Response to Comment A4-59 for technical assumption deficiencies in the Gard 2023 analysis and why habitat restoration, gravel augmentation, and geomorphic flows are more than sufficient to address the impacts of the Project on floodplain inundation.

Response to Comment A4-62

See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative. See also Response to Comment A4-59 for technical assumption deficiencies in the Gard 2023 analysis and why habitat restoration, gravel augmentation, and geomorphic flows are more than sufficient to address the impacts of the Project on floodplain inundation.

Response to Comment A4-63

The Live Oak Restoration Project design and construction is part of FOCPP and not part of the Project. This comment does not raise a significant environmental issue related to EIR adequacy, or effects of the Project, including CMs, on Coyote Creek fisheries or habitat. No further response is required.

However, in response to CDFW comments regarding installation of large woody debris in the Live Oak Restoration Project (A4-63), Valley Water notes that the citation that CDFW provides for appropriate LWD density (Napolitano 2014) is based on observations of LWD frequency in

Lagunitas Creek, which is a redwood dominated coastal watershed, and a very poor analogue for Coyote Creek. Valley Water has added more LWD to the 90 percent designs and continues to increase habitat complexity to the extent feasible while balancing flood risk and risk to the public within a County Park.

Response to Comment A4-64

The Live Oak Restoration Project design and construction is part of FOCPP and not part of the Project. This comment does not raise a significant environmental issue related to EIR adequacy, or effects of the Project, including CMs, on Coyote Creek fisheries or habitat. No further response is required.

However, the flows CDFW is referencing are from the period of 1950 to 2020. The Live Oak Restoration Project is designed based on the flows that will occur post-construction, rather than the previous flow regime. Appropriate gravel augmentation will be based on placing substantial amounts of gravel within the reach and carefully monitoring transport relative to flows. Gravel will be replaced and maintained as it is transported. In addition, the ADSRP includes a Sediment Augmentation Program and Geomorphic Flows Plan to monitor, augment, and ensure function of sediment in response to sediment transport being limited by Anderson Dam.

Response to Comment A4-65

See Response to Comment A4-64.

Response to Comment A4-66

The Live Oak Restoration Project design and construction is part of FOCPP and not part of the Project. This comment does not raise a significant environmental issue related to EIR adequacy, or effects of the Project, including CMs, on Coyote Creek fisheries or habitat. No further response is required.

However, Figure 2-2 presents flows that represent the existing hydrologic conditions of the watershed, but do not reflect future hydrology that is anticipated from changes in dam operations after ADSRP that would interact with the Live Oak Restoration Project.

Response to Comment A4-67

The Live Oak Restoration Project design and construction is part of FOCPP and not part of the Project. This comment does not raise a significant environmental issue related to EIR adequacy, or effects of the Project, including CMs, on Coyote Creek fisheries or habitat. No further response is required. However, the survey used a point density of approximately 1 point per 9 square feet or 100 points per 100m², which exceeds the USFWS (2016) criteria.

Response to Comment A4-68

The Live Oak Restoration Project design and construction is part of FOCPP and not part of the Project. This comment does not raise a significant environmental issue related to EIR adequacy, or effects of the Project, including CMs, on Coyote Creek fisheries or habitat. No further response is required.

However, the habitat criteria assessment used was consistent with the habitat criteria mapping method developed in collaboration with the TWG, and intended to determine if the design is increasing the “good” habitat for rearing steelhead. Intermediate conditions are not included, and thus not at risk of being overestimated.

Response to Comment A4-69

The Live Oak Restoration Project design and construction is part of FOCPP and not part of the Project. This comment does not raise a significant environmental issue related to EIR adequacy, or effects of the Project, including CMs, on Coyote Creek fisheries or habitat. No further response is required.

However, the goal of the Live Oak design was developed in collaboration with the TWG, and was focused on increasing the amount of highly suitable rearing conditions particularly for the fry life stage. This goal was developed in recognition that the combined historical effects of Anderson Dam on channel incision, reduced sediment supply, and regulated instream flows, have created abundant deep water habitat for rearing juvenile steelhead downstream of Anderson Dam, whereas shallow, low velocity fry rearing habitat and suitable spawning are both more limited (Stillwater Sciences 2024). Based on these habitat limitations and the described effects of the FOCPP and ADSRP on sediment dynamics, the goal of the Live Oak Restoration Project is to restore aquatic and riparian habitat and restore geomorphic function within Coyote Creek downstream of Anderson Dam.

Response to Comment A4-70

The Live Oak Restoration Project design and construction is part of FOCPP and not part of the Project. This comment does not raise a significant environmental issue related to EIR adequacy, or effects of the Project, including CMs, on Coyote Creek fisheries or habitat. No further response is required. However, the solver was diffusion wave.

Response to Comment A4-71

See Response to Comment A4-68.

Response to Comment A4-72

See Response to Comment A4-68.

Mr. Bourgeois

November 8, 2023

Sacramento, CA 95812-2000

Sincerely,



Eric Bradbury
Environmental Scientist
Division of Water Rights

Enclosures: Attachment A – Comments on Santa Clara Valley Water District's
Anderson Dam Seismic Retrofit Project Draft Environmental Impact
Report

cc: Kimberly D. Bose
Federal Energy Regulatory Commission
Via e-filing

Tiffany Chao
Santa Clara Valley Water District
Tchao@valleywater.org

Susan Glendening
San Francisco Bay Regional Water Quality Control Board
Susan.Glendening@waterboards.ca.gov

Keith Lichten
San Francisco Bay Regional Water Quality Control Board
Keith.Lichten@waterboards.ca.gov

Elizabeth Morrison
San Francisco Bay Water Quality Control Board
Elizabeth.Morrison@waterboards.ca.gov

Response to Comment A5-1

This comment largely repeats information contained in the Draft EIR, and does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A5-2

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A5-3

The acronyms for the significance determinations are defined in a key at the end of Table ES-1 on Final EIR page ES-53. Furthermore, acronyms in the EIR Executive Summary are defined on first use and then the acronym is used going forward, including in Table ES-1 (e.g., CDFW, NMFS, USFWS). However, the row for Impact GW-3 in Table ES-1 on Final EIR page ES-36 was revised to define GWMP as Groundwater Management Plan, as shown below.

Impact GW-3: Conflict with or obstruct implementation of the San Francisco Bay Basin Plan groundwater provisions or the District's Groundwater Management Plan (GWMP)	LTSM	Mitigation Measure GW-1: Provide Alternative Water Supplies
---	------	--

Response to Comment A5-4

Valley Water would monitor for both water pH and turbidity, as well as DO and temperature, during Project construction as part of a Water Quality Sampling Plan as discussed in Section 2.7.1 of the Final EIR. Valley Water would also collect sediment data under the Sediment Deposition Monitoring Plan (see Section 2.7.2 of the Final EIR) and turbidity and total suspended solids (TSS) data under the Sediment Monitoring Plan (see Section 2.7.2.1 of the Final EIR).

In addition, Valley Water would create a SWPPP for construction activities in areas outside of the reservoir that identifies and provides for the implementation of stormwater and runoff discharge monitoring (and implementation of other pollutant control BMPs) in compliance with the currently effective regulatory requirements for control of construction related pollutants set forth in the NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order WQ 2022-0057-DWQ) (General Construction Permit).

The following text in Section 2.7.1, *Water Quality Monitoring: Water Temperature, Dissolved Oxygen, Turbidity, and pH*, on page 2-101 of the Final EIR was revised to clarify this commitment:

Besides water temperature and DO, Valley Water would collect other water quality data, including pH and turbidity data as part of the Water Quality Sampling Plan. Valley Water would also collect sediment data under the Sediment Deposition Plan (see Section 2.7.2) and turbidity and total suspended solids data under the Sediment Monitoring Plan (see Section 2.7.2.1). As further described in Sections 2.7.2 and 2.7.2.1 below, turbidity, total suspended sediment, and sediment deposition associated with

releases of sediment resulting from in-reservoir construction activities, including primarily reservoir dewatering, will be monitored pursuant to the Sediment Monitoring Plan and the Sediment Deposition Monitoring Plan.

In addition, data would be collected for stormwater and runoff discharges from construction areas outside of the reservoir pursuant to a SWPPP developed in accordance with requirements set forth in the statewide Construction General Permit. The SWPPP, including construction discharge turbidity and pH monitoring that complies with the Construction General Permit, would be prepared and implemented to address construction stormwater discharges associated with out-of-reservoir seismic retrofit improvement construction activities. Should Valley Water observe water quality exceedances of the numeric actions levels specified for turbidity and pH in the Construction General Permit that are proximately caused by releases of pollutants discharged from ADSRP construction activities outside of the reservoir, then Valley Water and its contractors would comply with SWPPP conditions that implement Construction General Permit requirements. Further, the SWPPP would include water quality monitoring procedures and practices; erosion, sediment and pH control BMPs; and BMP and out-of-reservoir construction area inspection procedures to address sediment and pH. SWPPP implementation would be sufficient to address controllable turbidity and pH factors in compliance with the Construction General Permit standard and requirements. Specifically, the water quality monitoring provisions of the SWPPP would describe the turbidity and pH monitoring methods and water quality data reporting (e.g., regulatory agency reporting and frequency) as required by the Construction General Permit, including applicable requirements for analyses of exceedances; specification of sample collection and methods; procedures for sample storage, handling, and transport; and details pertaining to laboratory coordination, data management, analytical methods, and quality control.

~~Besides water temperature and DO, Valley Water may collect other water quality data (e.g., pH and turbidity). As described above, water quality data would be collected frequently, allowing for immediate review and continual tracking. Should Valley Water observe water quality exceedances based on the San Francisco Bay Region Basin Plan, Valley Water and its contractors would be responsible for inspecting the implemented BMPs to determine whether the exceedance is due to a controllable factor within the construction footprint. A water quality monitoring plan would be prepared that would outline requirements for water quality data reporting (e.g., regulatory agency reporting and frequency), including the requirements for analyses of exceedances; specify sample collection and methods; outline sample storage, handling, and transport procedures; and include details pertaining to laboratory coordination, data management, analytical methods, and quality control.~~

This construction phase water quality monitoring and data supplements other sediment monitoring to affirm mobilization and anticipated effects of in-reservoir sediments and guide post-construction restoration as described in Section 2.7.2. It also supplements other temperature and water quality constituent monitoring conducted pursuant to FAHCE in Coyote Creek from Anderson Dam to the intertidal zone.

This water quality monitoring data supplements other temperature and water quality constituent monitoring conducted pursuant to FAHCE in Coyote Creek from Anderson dam to the intertidal zone.

In addition, the following text on page 2-102 and 2-103 in Section 2.7.2.1, *Suspended Sediment Monitoring*, of the Final EIR was also modified:

Valley Water's *Sediment Monitoring Plan* (Horizon 2022) prepared for the FOCF would continue to be implemented throughout construction of the Project. The plan's focus is to continuously monitor suspended sediment discharges from Anderson Reservoir to evaluate the effect of the discharges on Coyote Creek fisheries habitat downstream of the dam. The monitoring data would also be used to help evaluate the effect of the discharges on Coyote Creek baylands habitat downstream of the dam. Continuous turbidity monitoring (15-minute intervals), suspended sediment concentration (daily intervals), and suspended load (daily intervals) would be collected in Coyote Creek, including in the FCWMZ.

Valley Water would implement a Sediment Monitoring Plan to continuously monitor suspended sediment discharges from Anderson Reservoir through completion of Project construction activities, and to monitor the effect of the discharges on Coyote Creek downstream of the dam. Continuous turbidity monitoring equipment (15-minute intervals) was installed in the FCWMZ as part of the FOCF. Valley Water would use collected data, in combination with sediment deposition data collected as part of sediment deposition monitoring (described below) to develop a sediment rating curve at several locations on Coyote Creek.

Valley Water contracted with United States Geological Survey (USGS) to collect continuous turbidity and suspended sediment monitoring data at four locations:

- **Madrone Gage (USGS 11170000):** This site is in Morgan Hill downstream of the confluence of the historic northern channel and existing southern channel and is within the primary steelhead rearing habitat within the FCWMZ.
- **Coyote Ranch Road Gage (USGS 11170450):** This site is in Coyote upstream of the Coyote Percolation Pond where Coyote Ranch Road crosses Coyote Creek (wet conditions data).
- **Edenvale Gage (USGS 11171500):** This site is in San Jose in the Edenvale neighborhood, adjacent to Fonick Drive (wet conditions data).
- **Highway 237 Gage (USGS 11172175):** This site is in Milpitas on the upstream side of Highway 237.

Monitoring locations used to collect continuous turbidity data and periodic sediment grab samples include the following:

- **Serpentine Trail Pedestrian Bridge:** grab samples for suspended sediment characterization, temporary/baseline turbidity monitoring, conductivity/ total dissolved solids measurements during grab sampling. Samples already collected, on 1/4/21 and 1/27/21 were not measurable due to the relatively dry conditions.
- **Valley Water Gage Station #5082:** continuous turbidity probe (15-minute intervals). This site is located downstream of the confluence of the historic northern channel and existing southern channel and of planned ADTP construction areas and is within

the primary steelhead rearing habitat within the FCWMZ. Telemetry will be used at this site to provide real-time data.

- Downstream end of dam release chute: visual monitoring for accumulation or larger sediment grain sizes.

In addition, supplemental turbidity and total suspended sediment concentration data would be collected by Valley Water near the Anderson Outlet during and/or following storm events. This suspended sediment monitoring data would be used together with the data collected under the Sediment Deposition Monitoring Plan to assess and confirm the anticipated impacts from sediment released during FOCF and Project construction on spawning habitat quantity and quality and guide the implementation of CMs, including the Maintenance of the Live Oak Restoration Reach, Ogier Ponds, and Sediment Augmentation Program CMs, to offset those effects.

For construction activities that result in in-reservoir disturbance, a Water Quality Monitoring and Protection Plan (WQMPP) would be implemented, which would include evaluation of the water quality monitoring data collected during FOCF implementation and Project construction, and implementation of BMPs to control sediment associated with in-reservoir construction activities to the extent technically feasible and in accordance with regulatory requirements. The WQMPP was added as Mitigation Measure WQ-1 on pages 3.14-71 and 3.14-72 in Section 3.14, *Water Quality*, of the Final EIR, as follows:

WQ-1 Develop and Implement an In-Reservoir Construction Area Water Quality Monitoring and Protection Plan

Prior to construction, Valley Water will prepare and submit to the State Water Resources Control Board for approval a site- and discharge-specific Water Quality Monitoring and Protection Plan (WQMPP) for stormwater discharges associated with in-reservoir construction-related activities. The WQMPP will specify water quality control measures to minimize release of construction-related pollutants and associated water quality impacts to Coyote Creek downstream of Anderson Dam in accordance with the Clean Water Act and Porter Cologne Water Quality Control Act, taking into account fundamental differences in ADSRP in-reservoir construction areas and activities as compared to typical construction sites and activities.

The WQMPP will be implemented through Year 8 of construction when the reservoir is refilled and restrictions on impoundment within the reservoir are lifted. The WQMPP will include, at a minimum, the following elements:

- A detailed description of site conditions and the proposed in-reservoir construction activities and areas of disturbance.
- Detailed descriptions, design drawings, and specific locations of water quality control measures (Best Management Practices [BMPs]) that can feasibly be implemented to control pollutants in stormwater discharges associated with in-reservoir construction activities given unique characteristics of those construction activities and areas. Control measures may include, but not be limited to, the following BMPs:
 - Limiting impacts from construction related staging and stockpiles.
 - Maintaining clean conditions at the work site.

- Implementing spill prevention and response controls, including secondary containment.
- Limiting locations for vehicle cleaning, fueling and maintenance to areas where unintentional spills do not threaten a discharge to waters.
- A technical demonstration that the BMPs satisfy Clean Water Act requirements for fundamentally different construction activities (including 33 USC sections 1342(p)(3) and 40 CFR sections 125.30-125.32)
- Ongoing evaluation and consideration during ADSRP construction of monitoring data collected and reported pursuant to the water quality monitoring program described in Final EIR section 2.7.1, including temperature, DO, pH and turbidity data collected pursuant to the Water Quality Sampling Plan, turbidity and TSS data collected pursuant to the Sediment Monitoring Plan, and sediment data collected pursuant to the Sediment Deposition Monitoring Plan. This mitigation measure may also rely on other data collected pursuant to existing FOCPP and/or other water quality monitoring plans when appropriate to avoid duplicative data collection.

The WQMPP will be kept up to date to reflect any changes in site conditions and project activities, and to address controllable water quality factors in response to monitoring data.

Response to Comment A5-5

Analysis of effects on fish during reservoir releases, pulse flow releases, and controlled releases from pipelines and diversion dams includes analysis of flow reductions in accordance with discharge rating curves and specification and consideration of flow ramping schedules. The Final EIR indicates that decreases in releases would be done in a gradual manner to minimize impacts on aquatic species (Table 2-18, page 2-115). As described in the EIR, reservoir releases would ramp down according to rules established in the FAHCE *Settlement Agreement* which would allow aquatic animals to adapt to changing flows (see Section 3.4.3.4) to avoid and minimize adverse effects on aquatic species. Appendix D, ADSRP AMP Detailed Tables, of the EIR includes the ramping schedules. Although rating curves are not included directly in EIR, Appendix F (Biological Resources – Fisheries Technical Appendix) includes average daily flow, thalweg depth, and daily average wetted area figures that were used to analyze impacts to fish, including ponding and stranding.

Rapid reductions in flow leading to public safety hazards are speculative, and the comment does not provide evidence that such an impact might occur or be significant. However, the Project purpose as stated in Section ES.3, page ES-3 is to: “seismically retrofit, maintain, and operate Anderson Dam and Reservoir to meet FERC and DSOD [California Department of Water Resources, Division of Safety of Dams] safety requirements, thereby allowing Valley Water to maximize water supply and related incidental benefits, while avoiding and minimizing environmental impacts of the implementation of those safety directives and requirements.”

Response to Comment A5-6

In response to this comment, Section 3.4.4, on page 3.4-83 of the Final EIR has been edited to state:

Once the reservoir has been drawn down to the correct elevation to initiate in-channel work, then the construction activity for that year would commence and any inflows coming into the reservoir would be diverted (or sometimes pumped) around the work area and released downstream. As described in Section 2.5.3.1 and 2.5.4.2, localized groundwater that is pumped from the dam footprint throughout construction would be pumped from the site and routed through an ATS. The ATS would remove sediment, reduce turbidity, and balance pH from these waters prior to release into Coyote Creek, downstream of the dam. Pumping would occur within the construction activity season (i.e., the dry season work window). Diverted water would not be treated.

Diverted water would not be treated because treatment of the expected large volumes of diverted water would increase public safety risk from retention of water in the reservoir; therefore, retention of water for treatment would not comply with FERC and DSOD orders. Even though diverted water would not be treated, temperature and turbidity would be monitored and impacts of increased sediment transport from diverted water during construction are assessed in Section 3.4, *Biological Resources – Fisheries Resources*, with more detailed technical analysis provided in Appendix F.

Response to Comment A5-7

In response to this comment, the text in Section 3.4.5 on page 3.4-189 of the Final EIR has been revised to correct the section reference:

Cumulative impact thresholds for fisheries resources are the same as the impact thresholds presented in Section 3.4.3.6 3.4.4, *Thresholds of Significance*.

Response to Comment A5-8

The commenter asks for analysis of the FOCP sediment samples (specifically mercury, diazinon and polychlorinated biphenyls [PCBs]) and potential effects to water quality. The following text has been added to Section 3.14.1, Environmental Setting, on page 3.14-5:

Anderson Reservoir is not identified on the 2024 CWA Section 303(d) list as impaired for diazinon (SWRCB 2024), Diazinon was banned for residential use in 2004 and there is no agricultural source of diazinon near Anderson Reservoir. While tributaries to Anderson Reservoir, including Coyote Creek, are impaired for diazinon, none of the five samples collected and tested as required by the FOCP water quality certification exceeded regulatory thresholds for listing diazinon (SWRCB 2024). Available monitoring data indicate low levels of diazinon in sediments mobilized from Anderson Reservoir as stated in the *Anderson Dam and Reservoir FERC Order Compliance Project Water Quality Certification Condition 8: Mercury, Diazinon, and PCBs Plan* (Valley Water 2021d). In addition, in consultation with RWQCB staff, it was determined that no further testing is necessary, nor are any diazinon-specific control measures necessary during the implementation of the FOCP.

Section 3.14.1, page 3.14-3 and Table 3.14-2 on page 3.14-5, have also been revised as follows:

Additionally, sediment sampling in preparation for and during FOCP construction found that mercury and PCB concentrations in Anderson Reservoir sediments were below

sediment screening values for both pollutants (sediment screening values listed in Table 3.14-2, Valley Water 2023a, Sequoia Ecological Consulting, Inc. 2024).

Table 3.14-1 Sediment Quality Screening Values for Mercury and PCBs

Analyte	Weighted Average ($\mu\text{g} / \text{kg}$)	Reuse Criteria ($\mu\text{g} / \text{kg}$)
Mercury	0.07 (mg /kg)	1.0 (mg /kg)
PCBs	6.3 ($\mu\text{g} / \text{kg}$)	22.7 ($\mu\text{g} / \text{kg}$)

Source: Valley Water 2023a 2023d

Key: Mmg = milligrams; kg = kilograms; μg = micrograms

The analysis of these FOCP sediment samples and the potential effects to water quality has been included in Section 3.14.1, and finds, because the pollutant concentrations are below screening values, adverse effects from mercury, diazinon, and PCBs are not likely to be significant despite sediment mobilization.

References were also added to Section 3.14.6:

Sequoia Ecological Consulting, Inc. 2024. RE: Anderson Dam Tunnel Project: In-Reservoir Sediment Sampling within Dredging Area. Prepared for Flatiron West, Inc.

Valley Water. 2021d. Anderson Dam and Reservoir FERC Order Compliance Project Water Quality Certification Condition 8: Mercury, Diazinon, and PCBs Plan. August.

California Department of Fish and Wildlife (CDFW) (CDFW, 2023⁶) for other reasons also related to temperature and increased productivity on the floodplains which translates to better juvenile growth in salmonids. (See also Comment 3 for additional details).

A6-22
cont.

It is important to note that the FAHCE-Plus Modified rule curves have not yet been evaluated with the Water Evaluation and Planning (WEAP) System flow model. The DEIR projections and conclusions about the FAHCE-Plus Modified rule curves are derived from the WEAP modeling results of the FAHCE-Plus rule curves evaluated in the FAHCE EIR. We recommend Valley Water run the WEAP System model for the FAHCE-Plus Modified to fully evaluate this alternative for the final EIR (if possible, to do so without delaying the Project). We also recommend the final EIR include additional details to characterize the nuances between the FAHCE-Plus rule curves and FAHCE-Plus Modified rule curves.

A6-23

Finally, we recommend inclusion of the adaptive management plan as an appendix with the final EIR. The plan was vetted already with the FAHCE Program EIR (FAHCE EIR, Appendix A, Chapter 6). Including it in an appendix with this EIR would provide additional context for this project's flow and non-flow measures and how they will be managed for the long-term. The abbreviated version in the DEIR does not provide the level of details needed.

A6-24

Comment 3. Ogier Ponds Conservation Measure Project Design

The Ogier Ponds conservation measure will restore and enhance 6,500 linear feet of Coyote Creek by separating the Creek from the Ogier Ponds complex, which are former quarry ponds. Maximizing the benefits of this reach would help to compensate for the significant, unavoidable impacts of fine sediment projected to be discharged through the outlet structure during Dam reconstruction while Anderson Reservoir is dewatered, and for the ongoing indirect adverse impacts of the Dam that will continue indefinitely. Constructing the widest floodplain feasible that can support inundation under a variable flow regime would maximize habitat complexity and diversity in this reach, such as a meandering low-flow channel with side channels and alcoves. This could support all life stages of steelhead and Chinook salmon, as well as basking and nesting areas for Western pond turtle and other native species. Also, we urge Valley Water to incorporate biologically relevant design criteria such as targets for acre-days per year for floodplain inundation provided by California Department of Fish and Wildlife (CDFW, 2023; see footnote 4).

A6-25

The DEIR states that the channel design will (1) be geomorphically stable, (2) have high-flow refugia and other habitat diversity elements on the floodplains, and (3) be designed to carry 50 cubic feet per second (cfs) in the low-flow channel. The DEIR should be revised to include more information to support the project design at the Ogier Ponds reach. For example:

A6-26

- How would the separation levee differ from the pre-1997 levee that breached and resulted in the Creek to be entrained in the ponds?

⁶ California Department of Fish and Wildlife (CDFW), 2023. Email from Mark Gard, PhD, CDFW Engineer, to Valley Water. September 15, 2023.

(DEIR p. 2-52, Table 2.8, Figure 2.4), but it is not clear whether the discharge point for 33,000 cubic yards of sediment noted in section 2.5.4.5, referenced as the ATDP (i.e., Anderson Dam Tunnel Project) disposal site, is the same as the Reservoir Disposal Area. Consolidating the various soil and sediment information into a table in the DEIR could help clarify such issues.

A6-43
cont.

Comment 8. Santa Clara Valley Habitat Plan (VHP) and Payment of VHP Fees

To meet the State's No Net Loss Policy, the Project should identify specific mitigation projects that provide sufficient compensatory mitigation for impacts to waters of the State. The sole mitigation plan in the DEIR appears to be payment of VHP fees for the impacts to VHP-covered species, which we cannot accept. The Water Boards can, however, accept the purchase of mitigation credits from an approved Mitigation Bank (Bank) or an approved In Lieu Fee (ILF) Program, when the credits available at a Bank or ILF Program are in-kind (i.e., the same type of aquatic habitat as will be impacted by the project) and the impacts occur within the Bank's or ILF Program's service area.

A6-44

To address this, please propose an appropriate mitigation plan to address impacts to wetlands and other waters of the State, through purchase of appropriate Bank or ILF Program credits, or through compensatory mitigation projects (or combination of credits and compensatory mitigation project(s)). Accordingly, the mitigation plan would need to be part of a Certification application. As noted in Comment 1, we would accept the plan as part of the HMMP being developed for the FOCPP (noted in Comment 1), or a separate plan specific to the ADSRP.

A6-45

Comment 9. Decommissioning of Hydroelectric Facility

Please explain how decommissioning of the hydroelectric facility at the Dam would affect the Water Board's CWA section 401 Certification for the Project. Valley Water anticipates surrendering the FERC license exemption associated with the Dam once the Dam meets FERC and DSOD safety requirements. However, the Project duration extends for another 8 years after Dam reconstruction. Please explain the roles of each authorizing agency once the surrender request is approved. For example, NMFS and USFWS are consulting with FERC as the lead federal agency. Would their roles and requirements discontinue upon FERC's approval of the surrender?

A6-46

Comment 10. Miscellaneous Additional Comments

- **Total Suspended Solids Measurements.** The DEIR states in various places: "TSS is a measure of SSC" (where TSS is total suspended solids and SSC is suspended sediment concentration). This is incorrect and should be clarified. Specifically, we request Valley Water clarify how TSS would be used instead of SSC to estimate sediment transport through the dam outlet works and through Coyote Creek to San Francisco Bay via Alviso Slough. This reiterates our comments and request for this information in the State Board Deputy Director's approval of the FOCPP sediment monitoring plan (September 10, 2021) to provide a rationale for using TSS. It appears that for the ADSRP, TSS and SSC are used interchangeably in the sediment modeling without explanation or justification.
- **Pesticides and Toxicity in Urban Creeks.** This section references the Water Board's total maximum daily load (TMDL) plan for toxicity in urban creeks (2005), but called it

A6-47

A6-48

Response to Comment A6-1

This comment largely repeats information contained in the Draft EIR, and does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A6-2

This comment largely repeats information contained in the Draft EIR, and does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. The comment states that the Project is planned to take 15 years. As discussed in Section 2.5.1.1, *Schedule*, on pages 2-37 and 2-38 of the Final EIR, construction of the Seismic Retrofit component is anticipated to take 7 years. The Draft EIR stated that implementation of the Sediment Augmentation Program was anticipated to occur through Year 15; however, the Sediment Augmentation Program has been revised, as shown in Section 2.6.3, *Sediment Augmentation Program*. Specific to the Project schedule, Section 2.6.3.1, *Construction Process and Phasing*, on page 2-92 of the Final EIR has been revised as follows:

Construction activities associated with the Sediment Augmentation Program would begin following completion of ADSRP construction, including the Ogier Ponds CM and initiation of Anderson Dam post-construction operations, and would continue throughout the Project and FAHCE AMP on at least a 5-year replenishment schedule for up to 20 years would occur from Year 2 through 10, and up to Year 15 as part of the Project, and continue throughout the FAHCE AMP.

Response to Comment A6-3

This comment largely repeats information contained in the Draft EIR, and does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. Nevertheless, please note that the Project and FAHCE AMP for Coyote Creek is included in the ADSRP EIR project description and evaluated throughout the ADSRP EIR. No further response is required.

Response to Comment A6-4

This comment largely repeats information contained in the Draft EIR, and does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. Nevertheless, please note that the FAHCE-plus Modified Alternative was included in the Draft EIR as an environmentally superior alternative based on NMFS recommendations for post-construction flows that were approved by the Project TWG. Also, please note that this alternative was further modified in the Final EIR to incorporate additional recommendations for post-construction flows in NMFS comments on the FERC surrender petition that were also approved by the TWG. No further response is required.

Response to Comment A6-5

Valley Water acknowledges that FERC's issuance of a conditional surrender order for ADSRP, as well as USACE's issuance of a federal Clean Water Act Section 404 Individual Permit must be addressed by the SWRCB's Section 401 Certification. Valley Water further acknowledges that in

issuing the Section 401 Certification, the SWRCB is required to comply with the *Procedures for the Discharge or Dredged or Fill Materials to Waters of the State* (Procedures) to find that the discharge as proposed constitutes the least environmentally damaging practicable alternative (LEDPA) to the discharge that would achieve the basic Project purpose. Further under the Procedures, Valley Water acknowledges that the alternatives analysis must demonstrate that the ADSRP first avoids impacts of the discharge to wetlands, streams and other aquatic resources; second, minimizes the impacts of the discharge to those resources; and third, provides compensatory mitigation for all remaining unavoidable impacts of the discharge to waters of the State Pursuant to the Procedures, the SWRCB must also take into account in conducting the alternatives analysis to determine the LEDPA that the Project cannot be located elsewhere outside of Waters of the United States and/or Waters of the State and achieve its health and safety purpose.

The commenter states that the Project has impacts that are either not mitigated adequately or are inappropriately deemed less than significant, resulting in noncompliance with the Basin Plan or State water quality standards. Valley Water disagrees with these general assertions for the reasons stated below.

As discussed in Master Response 3, the Project fully avoids, minimizes, and then provides compensatory mitigation for Project discharges to waters of the State. Compliance with VHP conditions and AMMs avoids and minimizes impacts, and payment of VHP permanent impact fees addresses temporal loss of aquatic resources. impacts. With respect to payment of VHP fees, *Master Response 3 – VHP Reduction of Impacts to Less than Significant* explains how payment of VHP fees assessed pursuant to an approved in lieu fee program would fully compensate for impacts of proposed discharges to waters of the State. In addition to full mitigation provided by VHP fees, the Project also includes Conservation Measures, including the Ogier Ponds CM, Sediment Augmentation Program, Phase 2 Coyote Percolation Dam CM, and Maintenance Activities at the Live Oak Restoration Reach and North Channel to further offset the Project's net permanent impacts, as discussed in Final EIR Section 2.6, *Conservation Measures Construction*, on pages 2-77 through 2-99. The Project would result in a net gain, not a net loss, of waters of the State, including wetlands and riparian areas, and related ecological functions and services. If during the Project permitting process SWRCB does not accept payment of VHP fees offered under the VHP approved in lieu fee program for temporal loss of riparian habitat, any additional or refined mitigation measures required by SWRCB would be determined through coordination with SWRCB and the San Francisco Bay RWQCB during the 401 Water Quality Certification process.

As described in Final EIR Chapter 2, *Project Description*, under Section 2.7.2.1, *Suspended Sediment Monitoring*, on page 2-102, Valley Water would implement a Sediment Monitoring Plan to continuously monitor turbidity and suspended sediment releases in stormwater discharges associated with in-reservoir construction activities from Anderson Reservoir through completion of Project construction activities in order to monitor the beneficial and adverse effects of releases carrying and depositing suspended sediment downstream of Anderson Dam into Coyote Creek and the baylands areas. The Sediment Monitoring Plan was created as part of the FOCPP and would continue to be implemented during Project construction. In addition, construction phase sediment deposition monitoring would be conducted to track downstream erosions and sedimentation within Coyote Creek during the construction phase. This monitoring would confirm the effects of sediment releases on the substrate and various habitat types within the Creek. This assessment will guide implementation of habitat restoration CMs,

including the maintenance and management of the Live Oak Restoration Reach and North Channel habitat improvements, implementation of the Sediment Augmentation Program, the implementation of other habitat restoration CMS, including Ogier Ponds, and ongoing adaptive management of these CMS and post-construction and geomorphic flow operations to assure the CMS are effective to restore or improve beneficial uses.

As stated on Final EIR Section 3.11, *Hydrology*, on page 3.11-42, implementation of a Sediment Monitoring Plan would measure impacts associated with elevated pollutant discharges associated with pollutants that may be adhered to suspended sediment in stormwater releases associated with in-reservoir construction activities from Anderson Dam.. In addition, Sediment Deposition monitoring would address deposition elevated sediment levels due to runoff passing over the previously inundated areas of Anderson Reservoir when it is dewatered, to account for and assure offset of the erosion and sedimentation/siltation in Coyote Creek that could occur during Project construction (i.e., the sediment liberated from Anderson Reservoir bed during runoff events). The effects from Anderson Reservoir dewatering would be temporary after storms during the construction phase. In addition, as stated on pages 3.11-42 and 3.11-43 of the Final EIR, Conservation Measures such as the Ogier Ponds CM, Spawning Gravel and Rearing Habitat, maintenance of the Live Oak Restoration Reach and North Channel habitat improvements, and the Sediment Augmentation Program would offset construction phase effects and provide long-term beneficial impacts in regard to erosion and sedimentation. Please also refer to the response to Comment A6-11 below, which discusses comments regarding impacts to beneficial uses of waters of the State due to siltation.

As stated on Final EIR pages 3.11-53 and 3.11-54, implementation of mitigation would not reduce the significant construction phase, short term impact of sediment releases to less than significant. Feasible and fully effective measures to reduce mobilization of lakebed sediment mobilization are limited. For example, it may be feasible to hydroseed portions of the reservoir bottom, but it would not stabilize enough sediment to reduce the sediment mobilization in a meaningful way. Similarly, measures to settle sediments within the reservoir, rather than allowing them to move downstream (turbidity curtains or operating the reservoir at a higher level) would not be feasible during construction because of the potential to increase risks of the interim dam being overtopped. However, even with implementation of Mitigation Measure WQ-1, the impacts from short term violation of water quality objectives related to sediment following certain-sized storm events during construction of the Seismic Retrofit components is considered a significant and unavoidable construction phase short-term effect. That said, the releases of sediment to Coyote Creek and the Baylands, which have historically been sediment deprived due to anthropogenic modification of Coyote Creek would improve beneficial uses within Coyote Creek and San Francisco Bay over the long-term.

An analysis of potential project alternatives was included in the 401 Water Quality Certification application submitted to the SWRCB; that application is generally supported by the project's EIR. For example, an Increased Dredge Alternative was considered in the Draft EIR as a potential way to reduce erosion and short-term exceedances of sediment related water quality objectives in the Basin Plan. While the removal of additional sediment that would occur as part of the Increased Dredging Alternative would reduce erosion and sedimentation transport effects, these impacts would remain significant and unavoidable construction phase impacts of short duration. Further, the impacts of this alternative on construction schedule and logistics would substantially extend and increase the construction phase and the duration of ADSRP temporal

impacts on water quality, beneficial uses, air quality, greenhouse gas emissions and other environmental resources.

Because the Project involves a hydroelectric facility and the proposed discharge activity requires a FERC license or amendment to a FERC license, the SWRCB will be issuing the Clean Water Act Section 401 Water Quality Certification. 23 CCR 3855(b)(1). Valley Water is required to and committed to coordinating with the SWRCB and San Francisco Bay RWQCB as part of the Section 401 Water Quality Certification process to reduce water quality impacts to the extent feasible. However, as acknowledged in the EIR, there are no feasible mitigation measures to reduce such Project construction-related episodic and short duration water quality impacts, specifically turbidity impacts, to a less-than-significant level under CEQA. Therefore, although the sediment releases are expected to improve beneficial uses, particularly WILD, WARM, COLD, EST and other related to sensitive species and habitats over the longer term, the impact remains significant and unavoidable.

Response to Comment A6-6

As discussed under Response to Comment A6-5, Mitigation Measure WQ-1 was added to pages 3.14-71 and 3.14-72 in Section 3.14, *Water Quality*, of the Final EIR, which requires implementation of a WQMPP for in-reservoir construction activities. The WQMPP will include evaluation of the water quality monitoring data collected during FOCF implementation and Project construction, and implementation of BMPs to control sediment and other pollutants associated with in-reservoir construction activities to the extent technically feasible and in accordance with regulatory requirements. However, even with implementation of Mitigation Measure WQ-1, water quality impacts resulting from construction phase exceedances of Coyote Creek water quality objectives for turbidity would remain significant and unavoidable. That said, releases of sediment to Coyote Creek and the baylands, which have historically been sediment deprived due to anthropogenic modification of Coyote Creek would improve beneficial uses within Coyote Creek and San Francisco Bay. Sediment releases would improve Coyote Creek and baylands habitat and beneficial uses, and impacts of discharges of dredge and fill material would be avoided and minimized, and any remaining effects would be fully offset. Thus, it is not necessary to add additional mitigation measures beyond Mitigation Measure WQ-1 to the Final EIR. Preparation of a new separate "comprehensive mitigation plan" for the Final EIR is unnecessary because all feasible mitigation measures are already included in the EIR. A HMMP will be submitted to SWRCB during permitting for the Clean Water Act Section 401 Water Quality Certification. Valley Water will engage with the SWRCB and San Francisco Bay RWQCB regarding the contents and requirements of the WQMPP and HMMP during the permitting process.

Response to Comment A6-7

The HMMP will be provided during permitting for the 401 Water Quality Certification. Valley Water is committed to coordinating with SWRCB and San Francisco Bay RWQCB as part of the Section 401 Water Quality Certification process to minimize water quality impacts to the extent practicable and feasible. Valley water will work with SWRCB to provide the information necessary for issuance of the Water Quality Certification.

Response to Comment A6-8

Master Response 2 – Steelhead Impacts provides the explanation for why historical impacts, which are part of and reflected in the Pre-FERC Order Baseline, are not assessed under CEQA in the EIR as Project impacts. These historical effects, which include past effects from the existence of Anderson dam (built in 1950) to flows, sediment and other geomorphic processes within Coyote Creek as well as related effects to fisheries habitat, are not a result of the Project and therefore are not discussed further.

Other than asserting that the continued presence of Anderson Dam, which is present in Pre-FERC Order Baseline conditions, is an impact of the Project, the comment does not provide any support for its conclusion that the Project adversely and permanently alters hydrology and sediment in a manner that constitutes a significant adverse effect on steelhead, Chinook salmon and Pacific lamprey.

With respect to hydrology effects of the Project, based on the technical evaluation set forth in Appendix F, the EIR analysis for Impacts FR-1a, F1-b and FR-1c simply does not demonstrate that the alteration to hydrology and instream flows proposed as part of the Post-Construction Operations component of the Project creates an adverse impact on these fish species. Instead, instream flows pursuant to the FAHCE rule curves as proposed by the Project or the FAHCE-Plus Modified Alternative, particularly in combination with proposed habitat restoration CMs, would create instream flows that lower instream temperature, be more variable, provide greater migratory pulses, and improve habitat conditions for all life stages of each species of fish as compared to both the Pre-FERC Order and Future Baseline conditions, which represent existing flow conditions prior to FOCF Drawdown and future flow conditions were Anderson dam operations to continue as usual.

With respect to sediment, the commenter asserts that the Draft EIR incorrectly determines that ongoing sediment blockage effects on steelhead, Chinook salmon and Pacific lamprey are less than significant. Again, the technical fisheries analysis simply does not support a finding of significant adverse impacts on these species as a result of sediment blockage by Anderson Dam as compared to baseline conditions. Instead, post-construction CMs such as the implementation, maintenance and adaptive management of the Post Construction Flow Operations Project component, the Sediment Augmentation Program, the North Channel maintenance, Live Oak Restoration Reach maintenance and Ogier Ponds CMs, together with implementation of the other CMs and Project components designed to provide environmental benefits, assure that the ADSRP benefits anadromous fish and their habitat as compared to both Pre-FERC Order and Future Baseline conditions, and as necessary to support Valley Water's restoration goals expressed in the FACHE *Settlement Agreement*.

Response to Comment A6-9

The comment asserts that Valley Water has selected a “preferred alternative” governing flow operations that would provide less benefits for steelhead, Chinook salmon and Pacific lamprey. In fact, Valley Water has not selected a preferred alternative, but both alternatives improve habitat conditions for fisheries within Coyote Creek.

The EIR evaluates post-construction dam operations and their effects on Coyote Creek in-stream flows pursuant to two different sets of reservoir rule curves. Final EIR section 3.4.4 (pages 3.4.-105 to 3.4-112) evaluates Post-Construction Flow Operations as a component of the Project (as

required by the FAHCE *Settlement Agreement*) pursuant to FAHCE Rule Curves. Also, Final EIR Section 5.9.3.4 (pages 5-90 to 5-93) evaluates post-construction flow operations pursuant to FAHCE-Plus Modified rule curves as a Project alternative. As described in Sections 3.4.4 and 5.9.3.4, both rule curve operations improve steelhead, Chinook salmon, and Pacific lamprey habitat conditions as compared to the Pre-FERC Order and Future baselines. Therefore, whether Valley Water approves as part of the ADSRP proposed Post-Construction Operations pursuant to the FAHCE rule curves, or the proposed FAHCE-Plus Modified rule curve operations alternative, no significant adverse impacts stated in Comment A6-9 would occur requiring additional mitigation under CEQA.

Further, Valley Water has not selected a “preferred alternative” for post-construction operations. Instead, when determining whether to approve the Project and certify the EIR, Valley Water will consider for adoption either the FAHCE rule curve Post-Construction Operations component of the Project or the FAHCE Plus Modified post-construction operations identified as the environmentally superior alternative.

As discussed in Final EIR section 5.9.3.4 (pages 5-90 to 5-93), the post-construction instream flow regime provided by operation of Anderson Dam in accordance with the FAHCE Plus Modified rule curves, rather than the FAHCE rule curves, would improve migration by increasing the number of passage days and promoting and/or maintaining run timing diversity in the steelhead populations. The FAHCE-Plus Modified Alternative would also improve steelhead migratory opportunities and diversify migration related pulse flows. Adult steelhead passage days would be higher on average and would have a higher minimum number of passage days under FAHCE-Plus Modified Alternative relative to FAHCE flows in the Project. For steelhead, the FAHCE-Plus Modified Alternative is expected to provide more fry rearing, juvenile rearing, and spawning habitat in the CWMZ and overall compared to the Project. In addition, the FAHCE-Plus Modified Alternative is expected to provide more suitable habitat for fry and juvenile Chinook rearing. Adult passage opportunities would be similar to the Project, but juvenile migration opportunities would improve. The FAHCE-Plus Modified Alternative would increase juvenile Chinook migratory opportunities in most year types and diversify outmigration related pulse flows. Juvenile Chinook would also have a higher minimum number of passage days under FAHCE-Plus Modified Alternative relative to FAHCE flows in the Project. For Chinook salmon, the FAHCE-Plus Modified Alternative is expected to result in a negligible decrease in spawning habitat but would provide more fry rearing and juvenile rearing habitat in the CWMZ and overall compared to the Project. These habitat and life stage benefits are expected to be similar for other special-status fish in Coyote Creek, including Pacific lamprey. Given these environmental benefits, the TWG supports the FAHCE-Plus Modified Alternative. Valley Water will consider these facts when considering which post-construction dam operations alternative to adopt as part of its action to approve the Project.

Response to Comment A6-10

The commenter correctly states that the retrofitted dam footprint would be 8 acres larger than the footprint of the existing dam. However, because most of the footprint would be inundated with water following refilling of Anderson Reservoir following seismic retrofit completion, only 3 acres of waters of the State would be lost as a result of expansion of the dam footprint. The replacement dam would minimize the footprint and environmental impacts to the greatest extent practicable, while meeting the FERC and DSOD seismic safety design requirements,

including providing a stable dam embankment capable of withstanding a maximum credible earthquake and a spillway with capacity to safely convey the probable maximum flood.

The commenter also correctly states that there would be an approximately 23-acre Reservoir Disposal Area (see Final EIR Section 2.5.2.5, *Reservoir Disposal Area*, page 2-57). The Reservoir Disposal Area would be the minimum size practicable needed to accommodate the materials excavated from the dam foundation, portals, tunnels, and structures, and overburden materials from borrow areas that cannot be reused or practicably trucked away from the construction area. The Reservoir Disposal Area would be located in the reservoir bottom and would be approximately 25 feet above the lowest intake port (elev. 488) at completion of the Project. Construction of the Reservoir Disposal Area would be completed using cells and successive lifts of disposal material in a manner that minimizes the overall footprint while ensuring stability. The location of the Reservoir Disposal Area was selected based on its close proximity to the dam retrofit construction, in order to minimize the length of haul trips needed to dispose of excavated material, thereby minimizing impacts related to air quality, GHGs, noise, and traffic.

An analysis of potential Project alternatives was included in the 401 Water Quality Certification application submitted to the SWRCB; that application is generally supported by and consistent with the Project's EIR. The alternatives analysis discussed why there are no practicable alternatives to disposal of the materials that are proposed to be placed in the Reservoir Disposal Area. That alternatives analysis evaluates an Upland Stockpile and Disposal Locations Alternative, which would use upland areas for some or all of the stockpile and disposal activities that are currently proposed to occur in waters of the state, within the bed of Anderson Reservoir. Valley Water investigated the possibility of using grassland areas on either side of Coyote Creek between Anderson Dam and US 101 for stockpiling of materials during Seismic Retrofit construction. Those grassland areas support very limited waters of the State, and therefore, using those areas for stockpiling of materials would result in much less impact on waters of the State than the Project. However, the use of the Anderson Reservoir bed for stockpiling and disposal of materials does not result in the long-term loss of waters of the State; stockpiled materials constructed within the reservoir bed would be removed following completion of Seismic Retrofit construction. Although the 23.4-acre disposal area within the reservoir bed would remain after completion of construction and would result in the long-term loss of some volume of waters of the State, this disposal area would be covered by more than 100 feet of water once the reservoir is refilled following completion of Seismic Retrofit construction, so there would be no loss of area or reservoir ecological functions or services of waters of the State resulting from the use of the reservoir bed for disposal.

This alternative would have substantially greater impacts on terrestrial biological resources than the proposed Project. The upland grasslands that would be used for stockpiling and/or disposal under this alternative provide nesting, foraging, and refugial habitat for a number of species. Even California annual grassland, which is not considered a sensitive habitat type, is used as dispersal and refugial habitat by special-status species such as California tiger salamanders and California red-legged frogs; nesting habitat for the northwestern pond turtle; foraging and roosting habitat for the burrowing owl; and foraging habitat for numerous other species, including the mountain lion. In contrast, the reservoir land cover type does not provide suitable habitat for any of these species according to the VHP.

The Upland Stockpile and Disposal Locations Alternative would necessitate constructing several new crossings of Coyote Creek downstream from Anderson Dam so that material could be

transported via truck and/or conveyor belt between the Dam and stockpile locations. Although these crossings would be removed following completion of Seismic Retrofit construction, impacts on riparian forest and woodland would remain long-term impacts. In addition, the Upland Stockpile and Disposal Locations Alternative would require that material would have had to pass through residential neighborhoods to be conveyed between the dam and stockpile locations, either by truck or conveyor belt. This alternative therefore has the potential to increase adverse impacts on sensitive receptors and the general public related to air quality, noise, and construction traffic. This alternative would also increase the Project cost by an estimated \$106 million due to additional hauling costs.

In summary, the Upland Stockpile and Disposal Locations Alternative would not be practicable due to increases in adverse effects related to air quality, noise, traffic, and terrestrial biological resources, in addition to a substantial increase in the Project cost.

The Project includes several Conservation Measures, including the Ogier Ponds CM, Sediment Augmentation Program, Phase 2 Coyote Percolation Dam CM, and Maintenance Activities at the Live Oak Restoration Reach and North Channel, designed to provide sufficient 'lift' in ecological functions and services to offset impacts of Seismic Retrofit construction, including impacts to the reservoir's lower-functioning open water habitat. Impacts to in-reservoir open water habitat from the Reservoir Disposal Area include reducing the water depth in an area of about 20.2 acres to approximately 100 feet, which would slightly reduce the reservoir's volume but would not alter its beneficial uses.

The Ogier Ponds CM would create a geomorphically stable creek with a connected floodplain, improving steelhead habitat and passage, and add new high-value habitat types and biological features. As described in Response to Comment A1-28, the Ogier Ponds CM would result in a net gain in ecological functions and services (i.e., WILD and COLD beneficial uses), as well as recreational uses (i.e., REC-1 and REC-2), and result in a net gain in jurisdictional waters, including perennial stream, coastal freshwater marsh, and riparian habitats. Additionally, as detailed in Response to Comment A4-10, the Ogier Ponds CM would improve steelhead habitat, increase spawning and rearing habitat, and reduce creek water temperatures, benefiting multiple sensitive species within the watershed. This net gain in both jurisdictional waters and ecological functions and services provided by the Ogier Ponds CM, among other Conservation Measures, would help offset the loss of open water habitat resulting from Seismic Retrofit construction, including the Reservoir Disposal Area.

As described in Response to Comment A6-5 and *Master Response 3 – VHP Reduction of Impacts to Less than Significant*, payment of VHP fees further compensates for any unavoidable impacts of proposed discharges to waters of the State. Permanent impact fees will be paid for all waters of the State, ensuring that the mitigation is sufficient and fully satisfies all regulatory requirements for these impacts. The Project would result in a net gain, not a net loss, of waters of the State, including wetlands and riparian areas, and related ecological functions and services. If, during the Project permitting process, SWRCB does not accept payment of VHP fees offered under the VHP approved in lieu fee program for temporal loss of riparian habitat, any additional or refined mitigation measures required by SWRCB would be determined through coordination with SWRCB and San Francisco Bay RWQCB during the 401 Water Quality Certification process.

Because there are no significant fisheries impacts associated with Impacts FR-1a, FR-1b, and FR-1c, as supported by the EIR impact analyses, no mitigation measures are required for these impacts.

Response to Comment A6-11

The comment misstates the EIR's conclusions regarding Project impacts on water quality. As stated on Final EIR page 3.14-70, the Project would not have significant impacts on beneficial uses. The only significant and unavoidable water quality impact (Impact WQ-1) is temporary exceedance of the turbidity water objective during certain-size storm events while the reservoir is dewatered. Refer to Response to Comment A6-5 above.

The EIR also addresses the effects of multi-year construction phase sediment releases in stormwater associated with in-reservoir construction activities, including temporal effects, spatial effects, impacts to various steelhead life history stages, and impacts to habitat conditions extensively in the impact analysis of Section 3.4, *Biological Resources—Fisheries Resources*. As stated in the EIR, increased suspended sediment could decrease fish populations in Coyote Creek during Seismic Retrofit construction (Years 3-7); however, the impact would not be substantial for the populations in the watershed as a whole. The EIR determines that adverse impacts to fish would be periodic, temporary, and less than significant. Because the Project would not result in significant, unavoidable impacts to beneficial uses, no additional compensatory mitigation is required. To address suspended sediment releases, monitoring would be conducted as part of the Water Quality Sampling Plan, Sediment Monitoring Plan, and the Sediment Deposition Monitoring Plan (as described in Section 2.7, *Construction Phase Monitoring* of the Final EIR). As described in Response to Comment A6-5, the results of that monitoring would be used to guide preparation and implementation of the WQMPP required by Mitigation Measure WQ-1 to avoid and minimize those effects, and to inform design and implementation of the habitat restoration Conservation Measures in Coyote Creek to offset those impacts.

The commenter also misstates that the Ogier Ponds CM was developed to mitigate for impacts from sediment held back by the dam over the last 70 years. As discussed in *Master Response 1 – Alternative Designs for Ogier Ponds*, the Ogier Ponds CM would consist of separating Coyote Creek from Ogier Ponds to provide ecological enhancements to the channel and floodplain, improve water temperature impacts of the ponds, enhance fish migration, and reduce fish entrainment. As also discussed in Master Response 1, CEQA requires mitigation of the effects of the project, and not mitigation of the effects of all historical modifications in the watershed. As such, the Ogier Ponds CM was designed to offset construction impacts of the ADSRP by restoring habitat that would be affected by altered flows and sediment deposition during construction, and not to address historical conditions associated with sediment deprivation downstream of the dam. Nevertheless, as described, the Ogier Ponds CM, together with the other CMs including implementation and adaptive management North Channel and Live Oak habitat restoration areas and the Sediment Augmentation Program, are expected to improve fisheries habitat as compared to pre-FOCP and existing conditions, which reflect ongoing effects of historical construction and operation of Anderson Dam and other facilities, including sediment effects.

As discussed under Response to Comment A6-5, the Conservation Measures including the Ogier Ponds CM, as well as the Sediment Augmentation Program, and Maintenance Activities at the

Live Oak Restoration Reach and North Channel, would not directly reduce the acute, short duration turbidity impacts in Coyote Creek that could occur during construction of the Seismic Retrofit component. However, they would provide long-term beneficial effects related to sediment and geomorphic related ecological functions and services of habitat within Coyote Creek that would offset the periodic and temporary turbidity impacts that would occur during construction. Additionally, as noted by the commenter, sediment has been held back by Anderson Dam over the last 70 years. Releases of sediment to Coyote Creek and the Baylands, which have historically been sediment deprived due to anthropogenic modification of Coyote Creek would improve beneficial uses within Coyote Creek and San Francisco Bay over the long term. Benefits of the Conservation Measures were considered in the environmental analysis in the Final EIR, including under *Reservoir Dewatering and Releases* on page 3.11-31 of Section 3.11.4.

Response to Comment A6-12

During Project construction, significant and unavoidable impacts related to exceedances of turbidity related water quality objectives for short durations following certain-sized storm events are expected (see Impact WQ-1 on pages 3.14-30 through 3.14-72 in Section 3.14, *Water Quality*, of the Final EIR); however, as discussed in Response to Comment A6-11, when taking into account Project Conservation Measures, this significant and unavoidable impact does not extend to the impairment of beneficial uses, as asserted by the commenter.

As described under *Significance Conclusion Summary* starting on Final EIR page 3.14-69, the significant and unavoidable water quality impact is related to the Seismic Retrofit component and is the result of reservoir dewatering, specifically within-reservoir water quality impacts and the temporary exceedance of the turbidity water quality objective in-reservoir and within Coyote Creek during certain-sized storm events that may occur while the reservoir is dewatered. However, as stated on page 3.14-74 of the Final EIR, “the impact on beneficial use impairment would be less than significant given the temporary and periodic nature of the turbidity impact.” As such, no mitigation specific to beneficial use impairment is proposed and there would be no “permanent degradation of beneficial uses,” as the commenter suggests.

Regarding the significant and unavoidable impacts related within-reservoir water quality impacts and the temporary exceedance of the turbidity water quality objective in Coyote Creek, as noted by the commenter, construction-related BMPs would be implemented to minimize this impact. Valley Water would also implement BMPs and VHP Conditions AMMs and implement a SWPPP in compliance with the Construction General Permit for work areas outside of Anderson Reservoir. Furthermore, as described in Section 2.7, *Construction Phase Monitoring*, turbidity and suspended sediment monitoring would be implemented in accordance with Valley Water’s Water Quality Sampling Plan, Sediment Monitoring Plan, and Sediment Deposition Monitoring Plan, including monitoring of turbidity and suspended sediment discharges from Anderson Reservoir through completion of Project construction activities as well as the effects of the discharges on Coyote Creek downstream of the dam. In addition, as discussed in Response to Comment A5-4, Mitigation Measure WQ-1 was added to page 3.14-71 and 3.14-72 in Section 3.14, *Water Quality*, of the Final EIR, which requires implementation of a WQMPP for in-reservoir construction activities. The WQMPP would include evaluation of the water quality monitoring data collected during FOCPP implementation and Project construction, and implementation of BMPs to control sediment associated with in-reservoir construction activities to the extent technically feasible and in accordance with regulatory requirements given the

unique requirements for reservoir dewatering during construction. However, even with implementation of Mitigation Measure WQ-1, the impact would not be reduced to less than significant such that the turbidity water quality objective is not violated (even if relatively briefly and episodically).

Response to Comment A6-13

See *Master Response 3 – VHP Reduction of Impacts to Less than Significant*, for a discussion of how the total package of avoidance, minimization and compensatory mitigation, including the payment of VHP fees pursuant the approved VHP In-Lieu Fee Program, implementation of VHP conditions and AMMs, and implementation of Project Conservation Measures would fully avoid, minimize and compensate for impacts to waters of the State under the jurisdiction of the SWRCB, which will issue the Clean Water Act Section 401 Water Quality Certification for the Project. In addition to payment of VHP permanent impact fees (which will be used by the Habitat Agency to provide on-the-ground mitigation per the VHP's In-Lieu Fee Program) and compliance with VHP conditions and AMMs, the Project includes Conservation Measures, including the Ogier Ponds, Sediment Augmentation Program, Phase 2 Coyote Percolation Dam, and maintenance activities at the Live Oak Restoration Reach and North Channel to off-set the Project's net impacts, as discussed in Section 2.6, *Conservation Measures Construction*, on pages 2-77 through 2-99 of the Final EIR. The Project would result in a net gain, not a net loss, in total waters of the State, particularly a net gain in wetlands and riparian areas.

SWRCB has oversight of impacts to waters of the State through the Section 401 Water Quality Certification process. The Interagency Review Team, including USACE and the San Francisco Bay and Central Coast RWQCBs, have approved the VHP In-Lieu Fee Program for impacts to waters of the State, making payment of VHP fees an appropriate component of the mitigation package designed to mitigate permanent and temporal losses of waters of the state, subject to review and acceptance of the mitigation during the Section 401 Water Quality Certification process.

Response to Comment A6-14

The FOCP is a separate project, with independent utility undertaken in response to FERC's February 20, 2020, Interim Risk Reduction Measure Order requiring Valley Water implement certain actions and construct certain facilities to reduce public health and safety risk posed to people and property downstream of Anderson dam. The FOCP is currently underway and has specified mitigation to address the effects of that project. The FOCP is projected to be completed in summer 2026, prior to construction of the Project. The HMMP for FOCP was prepared in August 2021 and updated in May 2022 and November 2023. An HMMP will also be prepared for the Project, a draft of which will be submitted during regulatory permitting by USACE, SWRCB, and CDFW. Lastly, given the HMMP to support Project permitting has not yet been prepared and is not required to support the impact analysis or mitigation measures proposed in the EIR, the HMMP is not included as an appendix to the EIR.

Response to Comment A6-15

This comment does not raise a significant environmental issue related to EIR adequacy and describes the environmentally superior nature of the FAHCE-Plus Modified rule curve operations analyzed in the EIR. Valley Water's Board of Directors may choose to select the environmentally

superior alternative as the final Project. That decision will be made by the Valley Water Board of Directors after certifying the Final EIR and considering Project approval.

Response to Comment A6-16

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required. However, as explained in Response to Comment A6-15, the Valley Water Board of Directors will consider whether to adopt the environmentally superior alternative when it considers Project approval.

Valley Water agrees that the FAHCE *Settlement Agreement's* management objectives differ from CEQA requirements for alternatives selection. However, both the proposed Project FAHCE rule curves and the FAHCE-plus Modified Alternative's rule curves have been designed to achieve the *Settlement Agreement's* management objectives. The *Settlement Agreement* does not require adoption of the FAHCE-plus Modified Alternative (the EIR environmentally superior alternative).

Response to Comment A6-17

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required. However, as explained in the Response to Comment A6-15, the Valley Water Board of Directors will consider whether to adopt the environmentally superior alternative when it considers Project approval.

As explained in Response to Comment A6-16, both the proposed Project FAHCE rule curves and the FAHCE-plus Modified Alternative's rule curves have been designed to achieve the *Settlement Agreement's* management objectives. The *Settlement Agreement* does not require adoption of the FAHCE-plus Modified Alternative. Note that the Project's FAHCE rule curves are included in the *Settlement Agreement* itself, demonstrating the Initialing Parties' conclusion that they would achieve the *Settlement Agreement's* management objectives.

Response to Comment A6-18

This comment does not raise a significant environmental issue related to EIR adequacy, and describes the environmentally superior nature of the FAHCE-Plus Modified rule curve operations analyzed in the EIR. The additional fisheries benefits provided by the FAHCE-plus Modified Alternative compared to the Project's FAHCE rule curves are described in Section 5.9.3.4. As explained in Response to Comment A6-15, the Valley Water Board of Directors will consider whether to adopt the environmentally superior alternative when it considers Project approval.

Response to Comment A6-19

This comment misstates that the FAHCE *Settlement Agreement* would prioritize groundwater recharge (SWR) and municipal and domestic supply (MUN) beneficial uses by reducing or curtailing environmental flows. Rather, Valley Water's implementation of FAHCE restoration measures must be consistent with the purpose of the Santa Clara Valley Water District Act, including providing sufficient water for all beneficial uses in the county (Valley Water 2023a). This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A6-20

The commenter misrepresents the projected water availability. The 2045 projected average water supplies of 650,000 AF per year (Final EIR Table 3.13-1) and projected countywide demand of 345,000 AF (Final EIR Table 3.13-2) do not reflect water supply and demand over multiple dry years. During a multi-year drought when supply is low, Valley Water faces challenges meeting the demand.

To start with, imported water allocations in a multi-year drought are expected to be much less than the allocations in an average year (shown as 142,000 AF in 2045 in Table 3.13-1). For instance, the lowest total annual imported water deliveries during the 1987-1992 drought were 83,200 AF as modeled by DWR's 2019 Delivery Capability Report, whereas the lowest deliveries in the 2012-2016 drought were 60,320 AF. As for out-of-county storage, the 70,000 AF per year on average overstates how the Semitropic Groundwater Storage Bank (Semitropic) is operated during a multi-year drought. In a drought, typically Valley Water cannot bring back more than 31,500 AF per year, irrespective of the quantity of water stored. In addition, Valley Water's contract with Semitropic is going to expire in 2035, without guarantees for renewal, so this is a supplemental source that Valley Water cannot assume will be available to support FAHCE. Regarding local groundwater storage, as indicated in the Table 3.13-1 notes, the 162,000 AF of available groundwater storage per year assumes groundwater can be drawn down to the Severe stage (Stage 4) of the Water Shortage Contingency Plan, a condition that is not sustainable in the long-term. Valley Water sustainably manages its local groundwater subbasins to avoid reaching the Severe stage because it greatly increases the risk of undesirable results, such as the resumption of permanent land subsidence and associated damage to infrastructure, water supply wells going dry, and impacts to groundwater-dependent ecosystems. Such undesirable results have potential implications for Valley Water as a Groundwater Sustainability Agency under the Sustainable Groundwater Management Act.

As detailed in Chapter 7 of Valley Water's 2020 Urban Water Management Plan (June 2021), projected surplus water is estimated to be 99,000 AF per year during the fifth year of a multiple year drought, not 305,000 AF per year as asserted by the commenter. The water supply projection of 99,000 AF per year assumes the completion of the following projects: Transfer Bethany pipeline; direct/indirect potable reuse; seismic retrofit projects of Anderson, Guadalupe, Calero, and Almaden dams; Pacheco Reservoir expansion; as well as an additional 35,000 AF of water conservation. The FAHCE-Plus Modified Alternative would use approximately 10.5 percent (10,373 acre-feet) of this surplus.

As discussed in Final EIR Section 5.9.3.12, Water Supply, the FAHCE-Plus Modified Alternative would have a similar impact related to water supply as the Project, which would not substantially alter or reduce Valley Water's ability to have sufficient water supplies from existing entitlements and resources. As such and stated on Final EIR page 3.13-24, this water supply impact would be less than significant.

The commenter expressed the opinion that this is a reasonable use of water and support for Valley Water's intention of adding the Fish and Wildlife Preservation and Enhancement beneficial use for a water rights change petition. This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A6-21

This comment does not raise a significant environmental issue related to EIR adequacy and describes the environmentally superior nature of the FAHCE-Plus Modified rule curve operations analyzed in the EIR. As explained in Response to Comment A6-15, the Valley Water Board of Directors will consider whether to adopt the environmentally superior alternative when it considers Project approval.

Response to Comment A6-22

Please refer to Response to Comment A1-21, which addresses the USFWS's comments regarding potential impacts of cool water releases on northwestern pond turtles. As indicated in that response, such impacts are addressed on pages 3.5-89 and 3.5-125 to 3.5-132 of the Final EIR; these impacts are less than significant because they are explicitly covered by the VHP. Valley Water will comply with the VHP, and the VHP's conservation program will include measures to benefit northwestern pond turtles. As a result, no mitigation measures, as proposed by this comment, are necessary to further avoid or reduce impacts to the species.

Response to Comment A6-23

Flows under the FAHCE-Plus Modified Alternative compared to the original FAHCE-Plus flows differ by minor changes in the safeguard and outmigration pulse timing and frequency that were designed with the TWG. Differences in the safeguard pulse would occur in winter and only if conditions had not been met to release an attraction flow. The modifications to FAHCE -Plus Modified were designed to diversify the timing and length of the pulses without increasing the total number of managed pulse days. However, the FAHCE-Plus Modified rule curves do provide an increase in safeguard or outmigration pulse days in some years due to the wider timeframe in which pulses could be triggered. As such, FAHCE-Plus Modified could result in a slight increase in the volume of water used for pulse flows in some years.

Given these minor changes, the WEAP modeling results for average habitat and relative habitat changes compared to Pre-FERC Order and Future baselines are likely very similar for FAHCE-Plus and FAHCE-Plus Modified. FAHCE-Plus Modified is expected to provide slightly better migration conditions and flow variability than the FAHCE-Plus rule curves without the modification but WEAP modeling would not provide much more resolution on relative environmental impacts of FAHCE-Plus Modified relative to FAHCE or the baseline conditions.

Section 5.5.3 on pages 5-21 and 5-22 of the Final EIR has now been updated to clarify:

Flows under the FAHCE-Plus Modified Alternative compared to the original FAHCE-Plus flows differ by ~~minor~~ changes in pulse timing, frequency, a downstream flow trigger, and flow for the safeguard flow, which would occur in winter if conditions had not been met to release an attraction flow. FAHCE Plus Modified also uses the original FAHCE Settlement Agreement threshold of 14°C for calculating the cold pool volume. In addition, the FAHCE-Plus Modified rule curves retain the ~~provide~~ longer pulse flow duration and increased volume of pulse flow from FAHCE Plus, with an increase in number of years with a pulse flow, and an increase in the number of pulses to comprise attraction, outmigration pulse, and safeguard pulses through the period December 1 to May 31, and vary the length of each type of pulse under some conditions in order to provide a diversity in migratory opportunity.

- Safeguard flows for adult steelhead upmigration and juvenile steelhead outmigration would occur between mid-January and the end of March (rather than waiting to check only once on March 1) and would be shorter in duration than FAHCE-Plus flows, allowing for two pulses to occur over a more diverse timeframe. A downstream flow trigger at stream gage 5058 was added so that managed pulse flows would coincide with natural precipitation events.
- Outmigration flows would occur between April 1 and the end of May (rather than waiting to check on April 15) and would be shorter in duration than FAHCE-Plus flows, allowing for two pulses to occur over a more diverse timeframe. A downstream flow trigger at stream gage 5058 was added so that managed pulse flows would coincide with natural precipitation events. Outmigration pulses can trigger regardless of whether attraction, safeguard, or security pulses have already been released.

The FAHCE Plus Modified rules also include the addition of a “security pulse flow” which may be released at the discretion of the OWG if certain conditions are met indicating a need for the pulse. The security pulse would be a magnitude of 90 cfs for four days (variations using the same volume of water allowable) and would be available to release if:

- By March 1st, no pulse has been released during the current water year and the safeguard pulse storage threshold is not met.
- Connection from Anderson Reservoir to San Francisco Bay has been made.
- Local inflows into Anderson and Coyote reservoir for the current water year have been greater than the 90 percent exceedance probability (i.e., dry year inflows) based on historical records (1936 to current water year).
- Valley Water is not pursuing, receiving, or planning to receive emergency water supply allocations from the State Water Project (i.e., Human Health and Safety allocations) or the Central Valley Project (i.e., Public Health and Safety allocations) during the current water year.
- Storage in Anderson and Coyote reservoirs would remain above the 20,000 Acre-Feet required for emergency water supply after the pulse is completed.

Response to Comment A6-24

The FHRP is the Fish Habitat Restoration Plan included as Appendix A in the FAHCE Final Program EIR (Valley Water 2023a). *Chapter 6 – Adaptive Management Program* of the FHRP outlines the framework and the process for the AMP for all three FAHCE watersheds, including Coyote Creek. Including the FAHCE AMP as an appendix to the EIR would add unnecessary length to the Final EIR because it is easily publicly available. Further, for the Project, the FAHCE AMP is supplemented by the Project AMP with detailed tables in Appendix D of the EIR.

Response to Comment A6-25

The alternative described in this comment is essentially the same as the CDFW Alternative to the Ogier Ponds CM. See Master Response 1 and Response to Comment A4-10 as to the disadvantages of the CDFW Alternative to the Ogier Ponds CM, the inaccuracies of the flows

used by Gard (2023) for floodplain inundation modeling, why it has additional environmental impacts and substantially higher costs that make the alternative impractical and undesirable from a policy standpoint, and why it need not be included in the EIR as an alternative.

Response to Comment A6-26

As described in Master Response 1, the Ogier Ponds CM would restore the pre-1997 creek channel to create a geomorphically stable creek with a connected floodplain, adding habitat and biological features to the creek and floodplain. The proposed design would include the filling of Pond 1 and the construction of two berms to create a new section of the creek channel and floodplain in the area of the pre-1997 creek channel. Unlike the failed separation berm that initially separated Coyote Creek from Pond 1, these two new berms would be constructed to withstand the erosion potential of high flows.

Response to Comment A6-27

Flows post ADSRP construction would have a 2-year recurrence of around 250-300 cfs, which is often referred to as bankfull flow. As stated in Master Response 1, the Ogier Ponds CM design is still in process, and details of the flows that inundate specific features are still being developed. The restored Coyote Creek channel would include a 2-foot-deep and 20-foot-wide low-flow channel with capacity to convey approximately 30-50 cfs, which is a flow range that would occur very often post construction and is therefore biologically relevant. The design will include floodplains that range from approximately 150-350 feet-wide on either side of the low-flow channel and will experience some inundation (including activation of side-channels) at around 90 cfs. Sediment transport modeling and careful design development will ensure dynamic equilibrium of the sediment transport through the reach.

Response to Comment A6-28

Flows post ADSRP construction would have a 2-year recurrence of around 250-300 cfs, which is often referred to as bankfull flow. As stated in Master Response 1, the Ogier Design is still in design process, and details of the flows that inundate specific features are still being developed. The restored Coyote Creek channel would include a 2-foot-deep and 20-foot-wide low-flow channel with capacity to convey approximately 30-50 cfs, which is a flow range that would occur very often post construction and is therefore biologically relevant. The design will include floodplains that range from approximately 150-350 feet-wide on either side of the low-flow channel, and will experience some inundation (including activation of side-channels) at around 90 cfs.

Response to Comment A6-29

As stated on page 2-78 of the Final EIR, the restored channel and connected floodplain would be able to convey 1,485 cfs, which is the maximum Anderson Dam Tunnel release capacity. Flows higher than 1,485 cfs have a 20 percent recurrence frequency and are exceeded about every five years. As stated on page 2-126 of the Final EIR, the spillway structure would be designed to divert flows to ponds when creek flows exceed 2,000 cfs, to help protect the integrity of the creek channel banks/berms. Flows of Coyote Creek exceeding the channel conveyance capacity would spill over a concrete spillway into Pond 2, be temporarily detained in Ponds 2, 3, and 4 and then drain from Pond 4 to Coyote Creek through one or more culverts equipped with fish

screens. The fish screens would prevent non-native and native fish from leaving the ponds and entering Coyote Creek. As such, the flow rate for the outlet weir is 1,485 cfs.

Response to Comment A6-30

As stated in Master Response 1, and discussed in Response to Comment A2-33, Valley Water intends to continue to engage with the agencies during the design process and integrate the comments provided by resource agencies during technical assistance (e.g., two site visits and several TWG meetings). The Ogier Pond CM is an extensive construction project, and an appropriately-sized staging area is required for equipment, and especially to stockpile materials for substantial fill. Incorporating all the staging and stockpiling areas is not feasible at this time (see Master Response 1). Valley Water will continue to coordinate with the TWG to maximize floodplain area.

Response to Comment A6-31

As described in Section 2.7.5.1, flows within the FCWMZ would be monitored through Project completion. There are also several flow gages that are monitored by USGS and Valley Water. Flow data in the FCWMZ (see Stream Gage 5082 at Madrone) are publicly available on Valley Water's Surface Water and Data Portal (Valley Water 2024d).

Response to Comment A6-32

The design of the Ogier Ponds CM is sufficient for purposes of conducting a thorough CEQA evaluation in the EIR. CEQA compliance options for any future changes in design would be evaluated consistent with CEQA Guidelines Section 15162-15164 requirements.

Response to Comment A6-33

As summarized in Master Response 2, under CEQA, the Pre-FERC Order environmental conditions is appropriately used as the baseline for the impact analysis. The Pre-FERC Order Baseline considers Project impacts in comparison to the species and habitat conditions that existed immediately prior to the FERC Order and related reservoir drawdown. Under CEQA, significant adverse impacts of the Project as compared to baseline conditions must be mitigated, but effects of historical modifications to the watershed are not the responsibility of this health and safety Project to mitigate.

The comment asserts but does not provide support for the assertion that the design of the Phase 2 Coyote Percolation Dam CM will not comply with NMFS and CDFW fish passage criteria. The purpose of design criteria is to provide performance standards for a percolation facility design, in this case design performance standards focus on assuring that the facility provides fish passage in a range of flow conditions for a minimum number of days as necessary to support migration of anadromous fish. More specifically, the additional modifications undertaken by Phase 2 will assure the retrofit of the Coyote Percolation Dam meets the design flow range for fishways, which is generally described in guidance as the mean daily average streamflow that is exceeded 95 percent (low end) to 5 percent (high end) of the time during periods when migrating fish are normally present at the site. However, NMFS fish passage guidance recommends that for watersheds in California project proponents should determine the appropriate design flows for a facility collaboratively with NMFS due to the variability of

hydrologic conditions, and Valley Water has committed to coordinating with the TWG to determine final design flows and other aspects of the Phase 2 Coyote Percolation Dam CM.

Because Valley Water has committed to developing the design of the Phase 2 Coyote Percolation Dam CM in accordance with NMFS and CDFW fish passage criteria serving as performance standards that must be attained by the Phase 2 design in coordination with the TWG, Valley Water together with the TWG will assure that fish passage through the Coyote Percolation facility will improve by development and construction of a design that meets specified fish passage performance standards. By satisfying NMSF and CDFW fish passage design criteria, the Phase 2 Coyote Perc CM designed in coordination with the TWG will make overall flow conditions better for fish migration in Coyote Creek, which is a benefit to anadromous fish species relative to baseline conditions. No long-term adverse impacts to fish species relative to baseline conditions are expected to result from the Phase 2 Coyote Percolation Dam CM and no additional mitigation to compensate for degradation to fish passage is required biologically or under CEQA. Additionally, the improvement in anadromous fish passage attained by the Phase 2 Coyote Percolation Dam CM would provide improved support for MIGR, RARE and COLD beneficial uses in Coyote Creek.

Response to Comment A6-34

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A6-35

The Phase 2 Coyote Percolation Dam CM would comply with NMFS and CDFW fish passage design criteria making conditions better for anadromous fish migration in Coyote Creek. As described on pages 2-94 and 2-95 of the Final EIR, the Phase 2 Coyote Percolation Dam CM would include construction of a roughened channel (approximately 500-feet long by 110-feet wide) using engineered streambed materials composed primarily of natural materials (e.g., boulders, cobble, gravel, and sand) placed in such a way as to mimic the configuration of a natural streambed. The roughness elements in the reconstructed creek channel would slow water velocities and result in upstream waters to back up and increase in depth. As a result, water depths would increase and hydraulic drops would decrease in size, ultimately improving fish passage conditions within Coyote Creek at the Coyote Percolation Dam area. The fish passage improvements would be designed and constructed in a manner consistent with the NMFS Anadromous Salmonid Passage Facility Design Manual (NMFS 2023) and CDFW California Salmonid Stream Habitat Restoration Manual (Flosi et al. 2010) to provide safe fish passage conditions whether the dam is inflated or deflated. Implementation of these design criteria assures improved passage conditions, for the benefit of steelhead, and other anadromous fish and aquatic species, as well as aquatic habitat within Coyote Creek relative to Pre-FERC Order and Future Baseline condition. Consequently, no mitigation for the effects of the Phase 2 Coyote Percolation Dam CM are required.

Response to Comment A6-36

As discussed in Master Response 2, under CEQA, the Pre-FERC Order baseline is appropriately used as the baseline for the impacts analysis, and considers the species and habitat conditions that existed immediately prior to the FERC Order. Under CEQA, significant adverse effects of the

project as compared to baseline must be mitigated and not the continuation of baseline conditions. The commenter assertions that mitigation for continued baseline conditions impacts from the historical existence of the dam are not substantiated by the case law.

Further, the Phase 2 Coyote Percolation Dam CM would comply with NMFS and CDFW fish passage criteria and would make conditions better for anadromous fish migration in Coyote Creek which is a benefit relative to baseline conditions and therefore does not require CEQA mitigation. The Phase 2 Coyote Percolation Dam CM would improve migration in Coyote Creek, which is a benefit to anadromous fish, other aquatic species, and aquatic habitat within Coyote Creek relative to Pre-FERC Order and Future Baseline conditions. As a result, beneficial uses would be improved, and no additional mitigation is required. While the No Net Loss Policy applies to discharges of dredge and fill materials to wetlands, rather than to effects on beneficial uses, the Phase 2 Coyote Percolation Dam CM design would improve beneficial uses and would not adversely affect wetlands, and no additional mitigation in the form of off-stream aquifer recharge designs are required.

Response to Comment A6-37

In response to this comment, the page 3.14-25 of the Final EIR has been clarified as follows:

To determine the potential for significant temperature impacts, average daily temperatures exceeding 71.6°F (22°C) in the CWMZ were selected as the significance criterion threshold.

The significance criteria for assessing impacts to a species, specifically during the construction phase when insufficient storage and cold pool are available to maintain FAHCE temperature targets within the CWMZ, are different than the post-construction operational targets for Anderson Dam releases (i.e., the FAHCE temperature targets).

As described on pages 3.14-25 and 3.14-26 of the Final EIR, the criterion was selected taking into account that USEPA has indicated that temperatures between 71.6°F and 75.2°F (22°C and 24°C) could begin to change salmonid behavior in response to increased temperature and limit salmonid distribution (USEPA 1999a and 2003, as cited in Carter 2008), with numerous reports citing juveniles present at temperatures of approximately 72°F (22°C) (NCRCD 2014; SCWA Sonoma County Water Agency 2003; Smith, J. 2018). Temperatures exceeding 71.6°F (22°C) would have a higher likelihood of altering salmonid behavior, reducing fitness, and approaching increased potential for mortality (depending on duration of exposure). Therefore, average daily temperatures exceeding 71.6°F (22°C) in the CWMZ are considered a significant impact in this EIR for the water quality analysis. It should be noted that this temperature is likely conservative for salmonids found in California, as research indicates that they may be locally acclimated to even warmer conditions. Juvenile CCC steelhead have been observed in streams with temperatures as high as 75.2°F to 78.8°F (24°C to 26°C) (Hayes et al. 2008; Kubicek and Price 1976). These temperatures align with those reported from controlled studies that showed central California steelhead could maintain 95 percent of their aerobic scope at temperatures as high as 76.3°F (24.6°C) (Verhille et al. 2016). Taken together, these studies provide evidence that steelhead in central California can tolerate temperatures greater than 75.2°F (24°C), although thermal variances occur with some populations having higher or lower thermal tolerance (Myrick & Cech 2000, 2001; Beakes et al. 2010; Chen et al. 2015).

The following clarification has been added to Section 3.14.3.4 on page 3.14-25 of the Final EIR:

It should be noted that the FAHCE Program identifies 64.4°F (18°C) in the Coyote Creek CWMZ as the temperature objective that best supports certain species' life cycles. However, based on the above discussion, exceeding this temperature in the CWMZ would not necessarily constitute a substantial adverse effect on salmonids in Coyote Creek, so it was not used as EIR significance criteria.

The Seismic Retrofit Construction and Seismic Retrofit Post-Construction Operations and Maintenance subsections in Section 3.14.4 (pages 3.14-30 and 3.14-52 in the Final EIR) were revised to clarify the 71.6°F (22°C) temperature is a significance criterion (and not a threshold) for the water quality analysis as follows:

Page 3.14-42:

Based on recent experience with FOCP, and given that Conservation Measures would be implemented, water temperatures during construction of the Seismic Retrofit component released from the reservoir outlet are unlikely to exceed the temperature criterion threshold 71.6 °F/22 °C) established for the FCWMZ and would not differ substantially from the Pre-FERC Order or existing conditions baselines.

Page 3.14-57:

There are instances when modeled temperature would be higher under the FAHCE but are always less than the 71.6 °F (22 °C) criterion threshold.

Page 3.14-65:

Imported water is typically warmer than water released from the reservoir, but not warm enough to exceed the 22 °C criterion threshold.

This distinction is important to note as the 71.6°F (22°C) temperature significance criterion for purposes of determining adverse effects to the beneficial uses related to surface waters in Section 3.14 Water Quality is different than the temperature target of 64.4°F (18°C) for summer base flows under FAHCE Rule Curves related to fisheries resources.

Moreover, the Seismic Retrofit Post-Construction Operations and Maintenance subsection in 3.14.4 (pages 3.14-52 through 3.14-66 in the Final EIR) includes analysis of the daily average water temperatures at Coyote Creek POIs 3 through 10 during Project operations compared to the 71.6°F (22°C) temperature significance criterion as well as the FAHCE Program 64.4°F (18°C) temperature target.

Response to Comment A6-38

The significance criterion would be based on the average daily temperature recorded within the CWMZ (Final EIR page 3.14-25).

Response to Comment A6-39

To clarify, the Draft EIR on page 3.14-22 (page 3.14-25 of the Final EIR) stated:

In post-construction conditions, Valley Water would continue to release imported water to the downstream end of the CWMZ via the Cross Valley Pipeline Extension, if stream flow from Anderson Dam does not reach the Cross Valley Pipeline Extension outfall and a dryback is present downstream. There is no temperature limitation for use of imported water in this manner because dryback is present at the release location (i.e., there are no natural receiving waters or temperature limitations as a result). (Emphasis added).

There is no temperature limitation for use of imported water under these specific circumstances because, while experts have been unable to establish natural receiving water temperatures for Coyote Creek, the Project releases only occur when dryback is present at the release location (i.e., there are no natural receiving waters, so there are no temperature limitations that can be applied in the dry channel). This measure is intended to allow managed groundwater aquifer recharge and protect a minimum level of in-stream flow to support aquatic and groundwater dependent habitats and species even during drought conditions, which grow more common as a result of climate change. This measure therefore supports beneficial uses that would otherwise be degraded by dryback.

Response to Comment A6-40

In response to the commenter's suggestion, page 3.14-53 of the Final EIR has been revised as follows:

...Valley Water would monitor temperatures at the ten FAHCE points of interest (POIs) below the dam as well as the outlet works at the Anderson Dam outlet structures.

Response to Comment A6-41

While the Project would create new impervious surface and gravel, levee, or other unsurfaced roads, the Project would also generate substantial beneficial impacts to water quality and beneficial uses through construction of the new reservoir outlet (greater use of the reservoir cold water pool and reduced potential for uncontrolled reservoir spills) and Conservation Measures. As discussed in Section 3.14, *Water Quality*, on page 3.14-65 of the Final EIR, the permanent roadway modifications installed as part of the Project would be designed to drain runoff into a stormwater system that would discharge runoff to Coyote Creek in a controlled manner or flow directly to the surrounding pervious lands. Stormwater runoff from new impervious surfaces would be controlled and treated before it is discharged to Coyote Creek. The Project stormwater treatment BMPs would be detailed on the design plans and would comply with applicable provisions and water quality control standards set forth in the San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (Order No. R2-2022-0018, NPDES Permit No. CAS612008, as amended) and would treat stormwater runoff from impervious surfaces to the full extent possible allowed by the right-of-way that can be made available for treatment systems. As a result, the EIR concluded that impacts related to water quality from discharges associated with new impervious surfaces would be less than significant. No revisions to the Draft EIR are required.

Because the Project involves a hydroelectric facility, the SWRCB will be issuing the Clean Water Act Section 401 Water Quality Certification. The storm drain/stormwater BMPs will be included on the design plans and submitted to the SWRCB when available. The San Francisco Bay RWQCB preference for low impact development BMPs to capture, detain, and treat stormwater runoff is

acknowledged and will be implemented where feasible, in compliance with the Municipal Regional Stormwater NPDES permit.

Response to Comment A6-42

As specified in Mitigation Measure HAZ-6, an Excavated Material Management Plan will be prepared as part of Project permitting to characterize soil that will be excavated, dredged, reused on site, or disposed of off-site. In addition, topsoil management will be addressed in a Phytophthora Management Plan. The Excavated Material Management Plan and Phytophthora Management Plan are equivalent to the soil management plan requested by the commenter and will be submitted with the application for Water Quality Certification to SWRCB. The Excavated Material Management Plan will include details for soil or dredged sediment sources, quality, borrow sites, volumes, discharge points, and export from the Project site. The Phytophthora Management Plan will include details for management of topsoil to prevent the spread of phytophthora.

As recommended by the San Francisco Bay RWQCB, evaluation of the suitability of excavated soil for beneficial reuse would include soil testing and screening using the analytic concentration guidelines in Table 4 of the *Draft Staff Report, Beneficial Reuse of Dredged Materials: Sediment Screening and Testing Guidelines*, May 2000 (with minor corrections as of 3/14/19).

Response to Comment A6-43

An additional table to convey the requested information on sediment stockpiling and disposal is not required because this information is already included in the Draft EIR. The estimated volume of stockpiled material is shown in Table 2-5, *Stockpile Areas*, on pages 2-48 and 2-49 of the Final EIR. Stockpile and disposal locations are depicted on Figure 2-4. While Table 2-5 and Section 2.5.2.5 do not summarize stockpile/disposal activities by year as requested, this level of detail is not necessary to support the analysis in the EIR.

The commenter also requested clarification regarding placement of the 33,000 cy of sediment that would be dredged from the upstream toe of the existing dam. Section 2.5.4.5, *Dam Excavation, Reconstruction, and Crest Raising*, on page 2-63 of the Final EIR has been revised as follows to clarify placement of this material:

During Year 1, approximately 33,000 cy of sediment would be dredged from the upstream toe of the existing dam, near the existing intake structure. Dredged sediments would be placed in the reservoir an extension of the in-reservoir dredge disposal area used for dredging during ADTP construction.

As described in Section 2.5.2.5, *Reservoir Disposal Area*, materials excavated from the dam foundation, portals, tunnels, and structures, and overburden materials from borrow areas that cannot be reused on site or at Ogier Ponds (or disposed within the borrow areas themselves) would be disposed of within the designated Reservoir Disposal Area. Over the course of the entire Project, an estimated 1,490,000 cy of material would be placed in the disposal area and 6,029,500 cy of material would be placed in the stockpile and staging areas.

Response to Comment A6-44

See *Master Response 3 – VHP Reduction of Impacts to Less than Significant*, for a discussion of how the total package of avoidance, minimization and compensatory mitigation, including the payment of VHP fees pursuant the approved VHP In-Lieu Fee Program, implementation of VHP conditions and AMMs, and implementation of Project Conservation Measures would fully avoid, minimize and compensate for impacts to waters of the State under the jurisdiction of the SWRCB, which will issue the Clean Water Act Section 401 Water Quality Certification for the Project. As discussed in Master Response 3, the Project fully avoids, minimizes, and/or mitigates Project impacts to waters of the State. In addition to payment of VHP permanent impact fees (which will be used by the Habitat Agency to provide on-the-ground mitigation per the VHP's In-Lieu Fee Program) and compliance with VHP conditions and AMMs, the Project includes Conservation Measures, including the Ogier Ponds, Sediment Augmentation Program, Phase 2 Coyote Percolation Dam, and Maintenance Activities at the Live Oak Restoration Reach and North Channel to offset the Project's net impacts, as discussed in Section 2.6, *Conservation Measures Construction*, on pages 2-77 through 2-99 of the Final EIR. The Project would result in a net gain, not a net loss, in total waters of the State, particularly a net gain in wetlands and riparian areas.

SWRCB has oversight of impacts to waters of the State through the Section 401 Water Quality Certification process. The Interagency Review Team, including USACE and the San Francisco Bay and Central Coast RWQCBs, have approved the VHP In-Lieu Fee Program for impacts to waters of the State, making payment of VHP fees an appropriate component of the mitigation package designed to mitigate permanent and temporal losses of waters of the state, subject to review and acceptance of the mitigation during the Section 401 Water Quality Certification process.

Response to Comment A6-45

The FOCPP is a separate project, with independent utility undertaken in response to FERC's February 20, 2020, Interim Risk Reduction Measure Order requiring Valley Water to implement certain actions and construct certain facilities to reduce public health and safety risk posed to people and property downstream of Anderson Dam. The FOCPP is currently underway, and has specified mitigation to address the effects of that project. The FOCPP is projected to be completed in 2026, prior to construction of the Project. Therefore, compensatory mitigation for the ADSRP will not be added to the HMMP for the FOCPP.

An HMMP will also be prepared for the Project, a draft of which will be submitted during regulatory permitting by USACE, SWRCB, and CDFW.

Response to Comment A6-46

As described in Response to Comments 3-2 and 3-3 to the SWRCB's comments on the FERC draft petition, the SWRCB is the state agency responsible for issuing a federal Clean Water Act Section 401 Certification for FERC's action on Valley Water's Petition for conditional surrender and for USACE's action on Valley Water's application for a Clean Water Act Section 404 permit for discharges of dredged and fill material to waters of the United States associated with the Project, including discharge requirements for ADSRP discharges of dredged or fill material to waters of the State. The SWRCB is the agency tasked with issuing the 401 Certification both for FERC's conditional surrender order and the USACE Section 404 permit pursuant to state

regulations (see, e.g., 23 Cal. Code of Regulations section 3855) because the ADSRP involves Valley Water's response to FERC's dam safety order and proposed FERC action on an existing Federal Power Act exemption. Valley Water acknowledges that the SWRCB is coordinating with the San Francisco Bay RWQCB in issuance of the 401 Certification, and Valley Water will continue to collaborate with both the SWRCB and the San Francisco Bay RWQCB regarding the certification.

As described in the FERC Petition Sections I and VII, while FERC retains authority to determine the limits of its jurisdiction over the ADSRP, Valley Water has defined the FERC Proposed Action to include all construction and activities related to the decommissioning of the hydroelectric facility and retrofit and reconstruction of Anderson Dam (including all dam related facilities), as well as implementation of BMPs, AMMs, VHP conditions, payment of VHP fees, implementation of Conservation Measures, and implementation of mitigation measures to avoid, minimize and offset adverse impacts resulting from construction, including those to managed aquifer recharge, water supply, subsidence, sensitive wetted habitats, fisheries, terrestrial wildlife, groundwater dependent habitats, as well as other environmental resources. Similarly, while USACE retains authority to determine the limits of its jurisdiction over the ADSRP, Valley Water has defined the USACE Proposed Action to include all construction and activities involving discharges of dredge and fill material related to any component of ADSRP, including retrofit and reconstruction of Anderson Dam (including all dam related facilities), and implementation of BMPs, AMMs, VHP conditions, payment of VHP fees, implementation of Conservation Measures including the Phase 2 Coyote Percolation Dam and the Ogier Ponds CM, and implementation of mitigation measures to avoid, minimize and offset adverse impacts resulting from construction, including those to managed aquifer recharge, water supply, subsidence, sensitive wetted habitats, fisheries, terrestrial wildlife, groundwater dependent habitats, as well as other environmental resources.

While each regulatory agency will determine the scope of its jurisdiction and when its jurisdiction should terminate, Valley Water anticipates that FERC and USACE will exercise jurisdiction until the agencies independently determine the safe reconstruction of Anderson Dam is completed and avoidance, minimization and mitigation measures, including various habitat restoration measures, have been successfully implemented to minimize the environmental impacts of the Seismic Retrofit. Several of the ADSRP Conservation Measures involve habitat restoration to minimize environmental impacts of the Seismic Retrofit construction. Specifically, implementation of: Monitoring and Maintenance of Spawning Gravel and Rearing Habitat Improvements at the Live Oak Restoration Reach, Maintenance of the North Channel Reach, Ogier Ponds CM, and Phase 2 Coyote Percolation Dam enhancements, and the provisions of the Sediment Augmentation Program involving long term discharges of dredge and fill material would not be considered "successful" habitat restoration measures until attainment of specific biological success criteria identified by federal and state regulatory agencies with jurisdiction over those measures. Valley Water anticipates that it would take some period of time after completion of habitat restoration related Conservation Measures included in the ADSRP (perhaps up to five years after implementation) for the measures to attain biological success criteria. Therefore, Valley Water anticipates that FERC and USACE jurisdiction and oversight over the ADSRP components they determine to be within their jurisdiction will continue for that time period following ADSRP construction Year 8 as necessary for habitat restoration related Conservation Measures to attain biological success criteria.

As noted by the comment, Valley Water has also incorporated into the ADSRP other post-construction and long-term environmental commitments to improve and adaptively manage steelhead and fisheries habitat conditions in Coyote Creek that FERC and/or USACE may find are outside of the scope of their jurisdiction. These post-construction and long-term measures are largely a product of ongoing pre-application consultations with NMFS, USFWS and other state and federal regulatory agencies with jurisdiction over ADSRP, including the SWRCB and CDFW. FERC and USACE may find these post-construction measures outside of the scope of their respective jurisdictions as pertains to the Project. On the other hand, FERC and USACE (which has continuing jurisdiction with respect to discharges of sediment) may instead find that these measures must be included as conditions of the FERC surrender order and/or USACE 404 permit (respectively) because the measures have been recommended by NMFS, USFWS and other regulatory agencies with jurisdiction. In any event, to the extent other state and federal agencies with regulatory jurisdiction have indicated that they will require these measures and commitments to support regulatory authorization of the Project, the post-construction measures are expected to be non-discretionary and independently enforceable under other state and federal laws as described in FERC Petition Exhibit E, Attachment 1, Table 1. As shown in Table 1, these environmental measures would not only be non-discretionary requirements of the USFWS and NMFS Biological Opinions once issued, but also are likely to be included as conditions in other regulatory permits for the ADSRP issued pursuant to, and therefore independently enforceable under, a variety of other state and federal environmental protection laws, including the federal Clean Water Act, the California Porter Cologne Water Quality Control Act, and the California Fish and Game Code. Valley Water acknowledges that these long-term environmental measures and commitments following dam reconstruction (e.g., measures and commitments related to post-construction operations and adaptive management activities) would be subject to the SWRCB's Section 401 Certification, and, in some cases the amended water rights license(s) issued by the SWRCB.

This comment is not related to the analysis and conclusions in the Draft EIR, and no changes to the Draft EIR are required.

Response to Comment A6-47

As described in the FOCPP Sediment Monitoring Plan, all monitoring of suspended sediment during the FOCPP and ADSRP uses SCC, and not TSS, as requested by San Francisco Bay RWQCB. The following footnote was revised on page 3.4-88 in Final EIR Section 3.4, *Biological Resources-Fisheries Resources*, as well as a similar footnote from page 3.14-33 in Section 3.14, *Water Quality*, in acknowledgement of the San Francisco Bay RWQCB's comment that TSS and SSC are not directly comparable:

⁷ Suspended sediment concentration is a measure of the amount of organic and inorganic particles in water. TSS which is the also a measure of the concentration of all organic and inorganic particles in water is also used sometimes instead of suspended sediment concentration. TSS only measures the weight of solids captured on a filter which can result in larger particles not being measured, therefore suspended sediment concentration is generally considered more accurate. The EIR uses suspended sediment concentration but suspended sediment concentration correlates with TSS also measures particles in water so either one could be used when discussing impacts to fish.

Response to Comment A6-48

The following text on page 3.14-11 in Section 3.14, *Water Quality*, of the Final EIR was revised as follows to correct the name of the Total Maximum Daily Load (TMDL):

~~TMDLs for the South San Francisco Bay that are relevant to the receiving waters downstream of Anderson Reservoir and Coyote Creek~~ include the San Francisco Bay Mercury TMDL (approved by USEPA in 2008), San Francisco Bay PCBs TMDL (approved by USEPA in 2010), and Diazinon and Pesticide-Related Toxicity in Urban Creeks ~~Dioxin Pesticide Toxicity~~ TMDL (approved by USEPA in 2007).

The following text was also revised on pages 3.14-19 and 3.14-20, in Section 3.14, *Water Quality*, of the Final EIR:

Toxicity: Coyote Creek and South San Francisco Bay are impaired by toxicity. The RWQCB has established an Diazinon and Pesticide-Related Toxicity in Urban Creeks ~~Dioxin Pesticide Toxicity~~ TMDL (San Francisco Bay RWQCB 2005).

The commenter also noted that San Francisco Bay RWQCB may require additional monitoring for pesticides and toxicity downstream of the dam pending their review of the reservoir sediment analysis. While TMDLs are not self-implementing, Valley Water acknowledges that if the sediment study indicated legacy pollutants in concentrations that would indicate such monitoring is warranted, the San Francisco Bay RWQCB has other authority to require additional monitoring for diazinon or other toxic pesticides. In addition, Valley Water notes that through ADSRP compliance with provisions of the San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (Order No. R2-2022-0018, NPDES Permit No. CAS612008, as amended) the Project provides for management of discharges that may cause or contribute to violations of water quality standards for pesticides, diazinon and chlorpyrifos (Municipal Regional Stormwater NPDES Permit) section C.1). However, available monitoring data indicate low levels of diazinon and PCBs in sediments mobilized from Anderson Reservoir as stated in the *Anderson Dam and Reservoir FERC Order Compliance Project Water Quality Certification Condition 8: Mercury, Diazinon, and PCBs Plan* (Valley Water 2021c. In addition, as determined in the Condition 8 Plan, in consultation with San Francisco Bay RWQCB staff, it was determined that no further testing is necessary, nor are any diazinon-specific control measures necessary during the implementation of the FOC. Therefore, release of diazinon during construction of the dam retrofit is not anticipated to be present in high levels such that additional monitoring would be warranted.

Response to Comment A6-49

As suggested by the commenter, the following permit was added to Table 2-22 under “State Agencies” on page 2-147 and 2-148 of the Final EIR:

SWRCB

Section 401 of the Clean Water Act and Porter
Cologne Water Quality Control Act – water quality
certificationSection 402 of the Clean Water Act – notification
under Construction General Permit Order No. WQ
2022-0057-DWQ 2009- 0009-DWQ

Water rights license amendments

California Statewide NPDES Permit for Discharges
from Drinking Water Systems (Order WQ 2014-0194-
DWQ; NPDES No. CAG140001, as amended)

The following permit was also added to Final EIR Table 2-22 under “Regional and Local Agencies” on page 2-147 and 2-148 in Chapter 2, *Project Description*:

San Francisco Regional Water Quality
Control BoardSan Francisco Bay Region Municipal Regional
Stormwater NPDES Permit (Order No. R2-2022-0018;
NPDES Permit No CAS612008, as amended)

Response to Comment A6-50

The following text on page 3.4-16 in Section 3.4, *Biological Resources – Fisheries Resources*, of the Final EIR was revised to correct the Basin Plan water quality objective for dissolved oxygen:

The Basin Plan indicates that the DO objectives for Coyote Creek waters designated as COLD have minimum instantaneous DO of 7 milligrams per liter (mg/L). The median DO concentration for any three consecutive months shall not be less than 80 percent of the DO content at saturation (San Francisco Bay RWQCB 2019). with exposure of 3.5 days at DO concentrations of 3 mg/L or lower as the threshold at which mortality begins (USEPA 1986)

Response to Comment A6-51

The heading in Table 5-8 was revised as follows on pages 5-30 through 5-38 of the Final EIR to correct the name of the EIR alternative:

Impact	Project	No Project	Level of Impacts with Mitigation		
			Increased Dredge	FAHCE-Plus Modified Enhanced	Ogier Ponds

Response to Comment A6-52

As stated on in the *Executive Summary* of the Final EIR on page ES-24, Valley Water would maintain the newly retrofitted Anderson Dam, associated facilities, and other appurtenances as part of Valley Water’s Dam Maintenance Program and Pipeline Maintenance Program. Regarding implementation of post-construction Conservation Measures during operations and maintenance, subsequent maintenance activities would be performed in accordance with the Valley Water Stream Management Program, or as part of the FAHCE Project AMP.

As stated on Final EIR page ES-26, the FAHCE and Project AMP would guide post-construction adaptive management of Project flow operations in coordination with and under the supervision of the Adaptive Management Team. Further, all non-flow fish barrier remediation and habitat restoration Conservation Measures that have met their specified success criteria, as defined through the regulatory permitting process, will similarly be adaptively managed pursuant to the FAHCE and Project AMP. The FAHCE and Project AMP process includes adaptive actions that would be vetted through the FAHCE Adaptive Management Team. Because the Draft EIR already details the process for preparation, implementation, and revisions to the flow and non-flow measures as part of the AMP, no revisions to the Draft EIR are required. The need for additional “operations and maintenance plans” for flow and non-flow measures, and the process for revisions to these plans, will be determined in consultation with the Adaptive Management Team.

Response to Comment A6-53

Valley Water will continue to coordinate with San Francisco Bay RWQCB throughout environmental permitting and implementation. This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Comment Letter A7- Santa Clara County, Lizanne Reynolds

Letter to Tiffany Chao
Re: Comments on ADSRP DEIR
Date: November 8, 2023
Page 2

satisfactory answers or assurances from Valley Water.² The DEIR is similarly opaque about these impacts and how or whether they would be mitigated or avoided.

A7-1
cont.

The DEIR fails to identify, analyze, and propose mitigation measures for these impacts and suffers from other deficiencies including, but not limited to, the following:

- The DEIR fails to fulfill its informational purposes under CEQA because it is overly-complex, uses numerous acronyms and technical terms, and employs multiple inconsistent baselines to evaluate the Project's impacts.
- The DEIR does not sufficiently identify or analyze the impacts of the Project on numerous County-owned public recreational facilities, including the apparently permanent and severe flooding of trails and other recreational facilities that would occur along the Coyote Creek Parkway and in Hellyer County Park, and the attendant impacts from constructing alternate facilities that will be required to address these Project-related closures.
- The DEIR improperly dismisses impacts that would occur during the 7-year construction period on the basis that these impacts are "temporary."
- The mitigation measures for restoring County lands used in Project construction are vague and unenforceable.

A7-2

A7-3

A7-4

A7-5

The County respectfully requests that Valley Water revise the DEIR to address these substantial deficiencies and recirculate the revised DEIR for public comment.

II. Overview of CEQA Requirements

The County's concerns about the adequacy of the ADSRP DEIR include an incomplete, unstable and inaccurate project description; failure to adequately identify and analyze several significant environmental impacts; failure to analyze the Project's cumulative impacts; and failure to identify and analyze mitigation measures and alternatives that could mitigate the project's impacts (disclosed and undisclosed). These flaws violate the core principles of CEQA, as set forth in the statute,³ the CEQA Guidelines,⁴ and caselaw, and summarized below.

"The EIR's function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been taken into account. For the EIR to serve these goals it must present information in such a manner that the foreseeable impacts of pursuing the project can actually be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward

A7-6

² See DEIR, p. ES-50.

³ California Environmental Quality Act, Pub. Res. Code § 21000 *et seq.* (CEQA).

⁴ Title 14, Cal. Code Regs., § 15000 *et seq.* ("CEQA Guidelines").

Letter to Tiffany Chao
Re: Comments on ADSRP DEIR
Date: November 8, 2023
Page 18

continue to occur throughout the 7-year construction period, and perhaps even during post-construction operations and implementation of the FAHCE rule curves. Unfortunately, the DEIR does not provide sufficient analysis for the County, the public, or agency decision makers to understand the future likelihood of these closures because the DEIR does not analyze the frequency or duration of the relatively low-flow releases that cause these impacts (25 and 55 cfs at the Edenvale gauge for Coyote Creek Parkway and Hellyer County Park, respectively). Thus, the proposed mitigation measure, which merely requires reimbursing the County for maintenance activities associated with flows over 500 cfs, will not adequately address this impact.

A7-58
cont.

Regarding impacts to recreational facilities during Project operation, the DEIR finds post-construction inundation impacts to be less than significant because water releases would conform to FAHCE operating rule curves and, although recreational facilities at Coyote Creek Parkway, Live Oak, and portions of Hellyer park would still be at risk for temporary inundation during storm events, they would be inundated less frequently and briefly (approximately 0.04% of the time). (DEIR, p. 3.18-55 (referring to analysis of Impact HYD-1(iv).) This conclusion is similarly flawed because it appears to be based on larger, more infrequent events with flow rates over 500 cfs, not the lower flow rates that result in inundation of the Coyote Creek Parkway and Hellyer County Park facilities (25 and 55 cfs, respectively, at the Edenvale gauge). (DEIR, p. 3.18-57 – 3.18-58.) The DEIR must be revised to analyze these impacts at the relevant flow rates during the construction and post-construction periods. If the flooding impacts are significant, then the DEIR must evaluate all feasible mitigation measures and alternatives to mitigate or avoid these impacts, including relocating these trail segments/access routes and/or building pedestrian/bicyclist bridges at these locations for the reasons described above.

A7-59

The DEIR also includes inadequate mitigation for restoring the significant impacts to the various County-owned recreational lands used by Valley Water during construction. (DEIR, pp. 2-67 – 2-69.) These lands would be subject to significant land disturbance. (See DEIR, p. 2-59 “(Clearing consists of the felling, trimming, and cutting of trees and removal of varying amounts of brush and other vegetation. Grubbing consists of the removal of stumps and roots below ground.” Topsoil would also be stripped from these areas.)) The DEIR states that “[a]s construction is completed in Years 6 and 7, temporary facilities would be removed, and all temporarily disturbed areas would be restored to their pre-construction conditions, where practicable.” “Restoration would generally include revegetating areas with native species . . . and repaving damaged roadways.” (DEIR, pp. 2-67 – 2-72, Table 2-10 (site-specific restoration activities).) The “where practicable” caveat is concerning because it could leave the County with substantially degraded public parkland. The DEIR must provide more information about this escape valve.

A7-60

G. Transportation (DEIR § 3.19)

The Transportation section fails to identify Coyote Creek Parkway as a transportation facility or evaluate transportation-related impacts from inundating the Parkway. The Valley Transportation Authority (VTA) has identified the Coyote Creek Trail as a planned bicycle

A7-61

stretch from the Project area to downtown San José. Increased or prolonged closures of Bay Area Ridge Trail segments from inundation will require construction of bridges or alternative routes to maintain connectivity.

Responses to Comment Letter A7

Response to Comment A7-1

As discussed in Final EIR Section 3.18, *Recreation*, on page 3.18-36, the Santa Clara County Parks & Recreation Department (SCCPRD) and Valley Water have coordinated closely and developed a Master Partnership Agreement to further establish a cooperative understanding between Valley Water and SCCPRD about permanent changes and reconfigurations to County parklands and recreational facilities. In addition, Valley Water has been working extensively with Santa Clara County to secure property rights to Santa Clara County-owned parkland for the construction and maintenance of the Seismic Retrofit and Conservation Measures and appreciates the County's continuing support in our Project planning efforts. During the course of discussion between the two agencies, Valley Water provided information to the County and has continued to do so to facilitate the County's consideration and review of this Project and the impacts on County lands. However, the Project is a complex, multi-year construction project with dynamic and many pre-existing environmental conditions that need to be incorporated when evaluating impacts that would result from the Project. Valley Water and the County have continued to meet after November 8, 2023 (the date of this comment letter) and the two agencies have resolved most of the remaining issues, including Impacts on County lands and facilities. Regardless, Valley Water is providing its responses to the County's comments here.

Response to Comment A7-2

In this comment, the County generally asserts that the Draft EIR fails to fulfill its informational purpose because it is overly complex, uses numerous acronyms and technical terms, and employs multiple baselines. The County made specific comments supporting this general assertion in Part III of its comment letter. See Responses to Comment A7-11 for a discussion about the complexity of the Project and the need for acronyms and technical terms in the EIR. See *Master Response 6 – Adequacy of EIR Baselines* for a discussion of the baselines used in the Draft EIR and why these specific baselines were chosen and are appropriate and not inconsistent.

Response to Comment A7-3

In this comment, the County generally asserts that the Draft EIR fails to identify or analyze the impacts of the Project on a number of County-owned recreational facilities, including the flooding of trails and recreational facilities that occur along Coyote Creek and within Hellyer County Park, including alternatives to offset these impacts. The County made specific comments supporting this general assertion in Part III of its comment letter. See Response to Comment A-43 for a discussion of the methodology that was used to assess Project related flooding impacts on County recreational infrastructure, including the trails along Coyote Creek and within Hellyer Park. Based on applying this methodology, the EIR does sufficiently analyze these impacts.

Response to Comment A7-4

In this comment, the County generally asserts that the Draft EIR dismisses impacts to County-owned lands and facilities throughout the 7-year construction period as this time period is considered as "temporary." See Response to Comment A7-56 for a discussion of the

methodology that was used to assess the timelines that were used to assess recreational impacts; the EIR discloses and does not dismiss these impacts.

Response to Comment A7-5

In this comment, the County generally asserts that the Draft EIR fails to include clear mitigation measures for restoring County lands that would be impacted through Project construction activities. See Responses to Comment A7-34 for a discussion of the mitigation measures that were identified to offset impacts to County lands, and why they are adequate.

Response to Comment A7-6

A lead agency is only required to respond to comments that raise significant environmental issues (CEQA Guidelines Section 15088(a)). The second paragraph of this comment summarizes legal authorities regarding CEQA and does not specifically address the adequacy, content, or impact conclusions of the Draft EIR. No further response is required to that paragraph.

This comment does not provide any justification for why the Project description is unstable or inaccurate. CEQA Guidelines Section 15124 provides the requirements for an EIR project description and states that a project description should include the location of the project, project objectives, description of the project's technical and environmental characteristics, and the intended use of the EIR by agencies for permitting and approvals. Draft EIR Chapter 2, *Project Description*, meets these requirements by providing detailed information regarding the Project and its components, including the following:

- Project location
- Project purpose, objectives, and benefits
- Overview of Project components
- Seismic Retrofit construction
- Conservation Measures construction
- Post-construction Anderson Dam facilities operations and maintenance
- Post-construction Conservation Measures operations and maintenance
- ADSRP and FAHCE Adaptive Management Program
- Avoidance and minimization measures
- Permits, approval, and consultations

This information serves as the basis for assessing the Project's potential environmental impacts, and environmental impacts for each of the Project components described in Chapter 2, *Project Description*, are analyzed throughout the EIR.

This comment does not specify which environmental impacts have not been adequately identified and analyzed in the Draft EIR. However, all environmental impact areas identified by CEQA Guidelines Appendix G have been analyzed within the Draft EIR in terms of Project construction and operation. An Initial Study was prepared for the Project and circulated for public review for 30 days, during which period a public scoping meeting was also held. The Initial Study is included in Appendix B of the Final EIR. In accordance with CEQA Guidelines Section 15063 and as noted in Section 1.7.3.1, *Notice of Preparation and Scoping Comments*, of the Final

EIR, the Initial Study determined that Population and Housing, Mineral Resources, and Public Services did not have the potential for significant environmental impacts, and these topics are not addressed in the Draft EIR. See Final EIR Appendix B for the analysis of Project impacts to these topics. All other CEQA Guidelines Appendix G topics are addressed in the Final EIR.

Cumulative impacts for each environmental topic are addressed at the end of each section of Chapter 3, *Environmental and Regulatory Setting and Impact Analysis*. Mitigation measures for each environmental topic are provided as needed within the sections of Chapter 3. Mitigation measures, as well as BMPs, AMMs, and VHP conditions, have been included in the EIR in order to reduce the Project's environmental impacts to the extent feasible, and Section 4.3, *Significant and Unavoidable Impacts*, of the Final EIR discloses those environmental topics for which Project impacts would be significant even with incorporation of feasible mitigation measures. Additionally, Chapter 5, *Alternatives*, of the Final EIR assesses four Project alternatives, including the No Project Alternative, in accordance with the requirements of CEQA Guidelines Section 15126.6. The alternatives studied would achieve most of the basic Project objectives, while reducing environmental impacts. Section 5.10, *Environmentally Superior Alternative*, of the Final EIR compares the environmental impacts of the Project and alternatives, and discloses the environmentally superior alternative.

Response to Comment A7-7

A lead agency is only required to respond to comments that raise significant environmental issues (CEQA Guidelines Section 15088(a)). To the extent that the comment summarizes legal authorities regarding CEQA and does not specifically address the adequacy, content, or impact conclusions of the Draft EIR, no further response is required. Valley Water understands the importance of providing a complete, stable, and accurate EIR project description. As discussed under Response to Comment A7-6, the EIR includes a thorough description of all components of the Project that meets the requirements of CEQA Guidelines Section 15124. This information serves as the basis for assessing the Project's potential environmental impacts. Valley Water included all Project components in Chapter 2, *Project Description*, to fully disclose and study the potential environmental impacts of the Project and avoid piecemealing of Project impacts. Environmental impacts for each of the Project components described in EIR Chapter 2, *Project Description*, are and analyzed in compliance with CEQA and CEQA Guidelines throughout the Final EIR.

Response to Comment A7-8

A lead agency is only required to respond to comments that raise significant environmental issues (CEQA Guidelines Section 15088(a)). To the extent that the comment summarizes legal authorities regarding CEQA and does not specifically address the adequacy, content, or impact conclusions of the Draft EIR, no further response is required.

Final EIR Table 3.0-2 in Section 3.0.6.5, *List of Relevant Projects*, provides the list of related past, present, and reasonably foreseeable future projects that are considered in the Project's cumulative impact analyses. Cumulative impacts for each environmental topic are addressed at the end of each section of Chapter 3, *Environmental and Regulatory Setting and Impact Analysis*. See Responses to Comments A7-29 and A7-68 through A7-70 for further discussion on cumulative impacts.

Response to Comment A7-9

A lead agency is only required to respond to comments that raise significant environmental issues (CEQA Guidelines Section 15088(a)). To the extent that the comment summarizes legal authorities regarding CEQA and does not specifically address the adequacy, content, or impact conclusions of the Draft EIR, no further response is required.

This comment does not identify any specific feasible mitigation measures or alternatives the County believes must be to evaluated, or that should have been included in the Draft EIR. Mitigation measures, as well as BMPs, AMMs, and VHP conditions, have been included in the EIR to reduce the Project's environmental impacts to the extent feasible. See Response to Comments A7-45, A7-57, A7-59, A7-61, and A7-71 for a discussion on mitigation measures. Additionally, Final EIR Chapter 5, *Alternatives*, assesses a reasonable range of alternatives (i.e. four Project alternatives, including the No Project Alternative), in accordance with the requirements of CEQA Guidelines Section 15126.6. The alternatives studied would achieve most of the basic Project objectives, while avoiding or substantially reducing environmental impacts the significant effects of the Project. Section 5.10, *Environmentally Superior Alternative*, of the Final EIR compares the environmental impacts of the Project and alternatives and discloses the environmentally superior alternative.

Response to Comment A7-10

A lead agency is only required to respond to comments that raise significant environmental issues (CEQA Guidelines Section 15088(a)). To the extent that the comment summarizes legal authorities regarding CEQA and does not specifically address the adequacy, content, or impact conclusions of the Draft EIR. This comment does not identify new or substantial impacts, feasible mitigation measures, or additional EIR alternatives compared to what is included in the Draft EIR, such that further recirculation of the Draft EIR would be required. No further response is required.

Response to Comment A7-11

Valley Water recognizes the importance of identifying a clear project description for assessing environmental impacts under CEQA and acknowledges the critical role of the project description in evaluating project impacts, ensuring transparency, and facilitating informed decision-making. The Project is a complex, multi-year undertaking, with several components that require consideration as part of the CEQA analysis. The length of Chapter 2, *Project Description*, and information presented therein reflects the complexity of the Project and the importance of ensuring that all pertinent information and details regarding the Project are presented to the public and decisionmakers. Chapter 2, *Project Description*, was not written in an attempt to confuse the public but rather to provide readers with the full breadth of information available regarding the various components of the Project that may have environmental impacts. Given the often technical nature of the project description, where technical terms appear, definitions or explanations are provided to ensure that the public can understand and properly evaluate the information presented.

The Final EIR Executive Summary provides a summary of the Project, which distills the Project details into a more digestible format, and is available for the commenter's reference. Furthermore, the Table of Contents of the Final EIR includes a list of acronyms and abbreviations

used throughout the Final EIR to provide readers with a guide on any acronyms used in the document, and the commenter is referred to this list to clarify any acronyms that are unclear to the commenter.

Response to Comment A7-12

The water rights on Coyote Creek would be changed to implement the FAHCE flow curves as part of post-construction operation after completion of ADSRP construction. The FAHCE flow curves for Coyote watershed (within which the Project is located) are included as part of the Project description (see Section 2.8.3, *Post-Construction Operational Rule Curves*, starting on page 2-114 of the Final EIR) and the impacts from implementation of the flow curves are described as operational impacts in the applicable resource sections of Chapter 3, *Environmental and Regulatory Setting and Impact Analysis*.

As the comment noted, in 2015 Valley Water submitted petitions for change to the State Water Resources Control Board (SWRCB) for water rights held by Valley Water in Coyote Creek, Stevens Creek, and Guadalupe River (Three Creeks); five of the water rights are associated with Coyote watershed within which the Project is located. The petitions were filed to update the water rights to reflect current operation and points of diversion (e.g., updating maps and correcting locations of points of diversions), request adding Fish and Wildlife Preservation and Enhancement as a purpose of use, and as a placeholder for the SWRCB's approval process for FAHCE while Valley Water was undertaking CEQA review for FAHCE. To make clear Valley Water has no intention of terminating the use of Coyote Creek waters diverted into Anderson Reservoir for irrigation and recreational purposes, Valley Water will amend its Coyote Creek water rights petitions to not seek the removal of irrigation and recreational uses from its water right licenses as part of the change petition process.

The FAHCE flow measures and non-flow habitat improvement measures in Stevens Creek and Guadalupe River watersheds were evaluated in the FAHCE Final EIR which was certified by Valley Water board in August 2023. After Valley Water certified its FAHCE Final EIR and approved the FAHCE program for the Stevens Creek and Guadalupe River watersheds, Valley Water submitted revised change petitions for the water rights licenses held by Valley Water in those two watersheds to the State Water Resources Control Board (SWRCB). The SWRCB proceeding is ongoing.

Similarly, Valley Water plans to submit revised change petitions for water right licenses held by Valley Water in the Coyote watershed following completion of the CEQA review and near the end of the construction phase of the ADSRP. The amendments are intended to update the water rights to allow implementation of the FAHCE flow curves and the habitat improvement in the Coyote Watershed. These actions on Coyote Creek have independent utility, serve an independent purpose, and are not dependent on completion of FAHCE activities in other watersheds. The SWRCB as a responsible agency under CEQA will rely on the Final EIR for ADSRP before approving the Coyote Creek water rights amendments (14 Cal Code Regs §15381) prior to the completion of the construction phase of ADSRP.

Response to Comment A7-13

As explained in Response to Comment A7-12, the water right changes for Coyote Creek Watershed would occur as part of post-construction operation after the updates are made

through the SWRCB water rights change proceeding. Those updates would not occur until construction is completed or near completion. The technical changes including correcting the locations of points of diversion and updating maps are merely intended to clarify and update the technical aspect of the water rights that have changed over time and to meet current SWRCB mapping requirements. They do not represent a change in operations from the baseline and would not cause a new substantial impact or a substantially increased impact on the environment. The impacts from the post-construction operation of the FAHCE flow and non-flow habitat improvements are discussed in the Final EIR in the post-construction operations impact analyses in Section 3.4, *Biological Resources – Fisheries Resources*, and Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*. Likewise, the addition to beneficial uses to include municipal and wildlife preservation and enhancement would not cause a new substantial impact or a substantially increased impact on the environment. The change is being proposed to allow Valley Water to fulfill the watershed stewardship objectives in the Santa Clara Valley Water District Act and the FAHCE Settlement Agreement. Non-consumptive recreational use of this water would not change as a result of the Project. (See 23 Cal Code Regs § 633 [defining municipal use to include incidental beneficial uses, which in the case of Coyote water rights includes recreational uses.])

Response to Comment A7-14

See Responses to Comments A7-12 and A7-13. The change to municipal use is merely to conform Valley Water's Coyote Creek water rights to current State Water Resources Control Board beneficial use designations (23 Cal Code Regs § 663). The definition of municipal use references "use incidental thereto for any beneficial purpose", which includes incidental irrigation and non-consumptive recreational uses. To make clear Valley Water has no intention of terminating the use of Coyote Creek waters diverted into Anderson Reservoir for irrigation and recreational purposes, Valley Water will amend its Coyote Creek water rights petitions to not seek the removal of irrigation and recreational uses from its water right licenses as part of the change petition process.

Response to Comment A7-15

As discussed in Response to Comment A7-12, while Valley Water had submitted petitions for water right changes in 2015, the water right changes would occur as part of post-construction operation after the updates are made through the SWRCB water rights change proceeding. The petitions will be released for public review and comment per the State Board's licensing process. Those updates will not occur until construction is completed or near completion. EIR Section 2.12.1 summarizes the proposed water rights amendments in sufficient detail to allow the EIR to allow the reader to understand their relationship to impacts disclosed in the EIR: the impacts of implementing the FAHCE flow curves and non-flow habitat improvements. The impacts from the post-construction operation of the FAHCE flow and non-flow habitat improvements are discussed in the Final EIR in the post-construction operations impact analyses in Section 3.4, *Biological Resources – Fisheries Resources*, and Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*.

Response to Comment A7-16

The ADSRP EIR is not improperly tied to the FAHCE EIR. As detailed in Final EIR Section 1.3.4, *Fish and Aquatic Habitat Collaboration Effort*, on pages 1-10 and 1-11, Valley Water's CEQA review of the FAHCE Settlement Agreement measures does occur in two EIRs: the FAHCE Program EIR for Stevens Creek and Guadalupe River (Valley Water 2023) and the Project EIR for ADSRP, which includes implementation of FAHCE in the Coyote Creek Watershed. This EIR for ADSRP evaluates the impacts of implementing the FHRP and FAHCE Settlement Agreement within the Coyote Creek Watershed, including the FAHCE Coyote Creek Phase 1 flow and nonflow measures, and evaluates related monitoring, maintenance, and potential adaptive actions related to those measures. This approach is consistent with CEQA requirements to avoid "piecemealing" because (1) the Coyote Creek watershed is physically separated and isolated from the Stevens Creek and Guadalupe River watersheds; and (2) the Coyote Creek, Stevens Creek, and Guadalupe River FAHCE measures have independent utility in that Conservation Measures within Coyote Creek could be implemented even if the Stevens Creek and Guadalupe River measures were not, and vice versa. For ease of future FAHCE implementation, Valley Water has decided to retain a single FHRP and AMP that includes a common AMP for all three watersheds.

In addition, see Response to Comment A7-12. The water rights on Coyote Creek would be changed to implement the FAHCE flow curves as part of post-construction operation. The amendments are intended to update the water rights held only in the Coyote Creek Watershed consistent with the FAHCE Settlement Agreement, including implementation of the FAHCE flow curves and the Coyote Creek related non-flow habitat improvement measures in the FAHCE Settlement Agreement. As noted above, these actions on Coyote Creek have independent utility, serve an independent purpose, and are not dependent on completion of FAHCE activities in the other two watersheds.

Draft EIR Section 2.12.1 summarizes the proposed water rights amendments in sufficient detail to allow the EIR to allow the reader to understand their relationship to impacts disclosed in the EIR: the impacts from the post-construction operation of the FAHCE flow and non-flow habitat improvements

Response to Comment A7-17

Refer to Responses to Comments A7-13 through A7-15 for a discussion regarding water rights amendments. As discussed in Final EIR Section 3.0.4.6, *General Approach of Water Rights Amendments*, on pages 3-11 and 3-12, Valley Water is proposing changes to its currently held water rights in the Coyote Creek Watershed. Technical changes to water rights include correcting the locations of points of diversion and updating maps. Valley Water's water rights licenses would also be amended to add Fish and Wildlife Preservation and Enhancement as a beneficial use of the diverted water. The impacts of utilizing water for fish and wildlife preservation and enhancement is analyzed in the Final EIR. The water rights amendments themselves would not cause any additional physical environmental impacts, beyond those that would result from implementation of the Project. No additional information related to proposed water rights amendments associated with the Project is required to be included in the Final EIR.

The water right changes occur as part of post-construction operation and are still in the process of being updated. Those updates would not occur until construction is completed or near completion. The impacts from the post-construction operation of the FAHCE flow and non-flow

habitat improvements are discussed in the Final EIR in the post-construction operations impact analyses in Section 3.4, *Biological Resources – Fisheries Resources*, and Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*

Response to Comment A7-18

The description of the entire Project Area is provided in Final EIR Section 2.2.2, *Project Area – Anderson Dam and Reservoir, Coyote Creek, Ogier Ponds, and Coyote Percolation Pond*, on page 2-6. As discussed therein, the Project Area includes the Coyote Percolation Dam, the Coyote Creek channel between Anderson Dam and the Coyote Percolation Dam, and the coldwater management zone (CWMZ), which is defined as an approximately 6 mile stretch of Coyote Creek between the Anderson Dam outlets and Coyote Creek Golf Drive. The Project Area encompasses all areas in and around the Project site that could be impacted by the Project. In each specific analysis section included in the Final EIR, the description of the *study area* is refined to only include areas in and around the Project site that could experience impacts associated with that resource topic. For instance and per comment A7-19, Final EIR Section 3.11, *Hydrology*, on page 3.11-1, the study area is described as including the tidally inundated portion of lower Coyote Creek, because that area of Coyote Creek Parkway specifically is relevant to the discussion of hydrological impacts. Similarly, per comment A7-20, Final EIR Section 3.18, *Recreation*, describes the study area to include the portions of Coyote Creek Parkway which would be affected by the Project (in this case, Coyote Creek Parkway South, as defined in the Final EIR on page 3.18-17). Therefore, there is no discrepancy in the description of the Project Area and no changes to the Draft EIR are required.

Response to Comment A7-19

See Response to Comment A7-18.

Response to Comment A7-20

The recreational study area was not intended to be limited to Coyote Creek Parkway South, though this portion of the parkway is the focus of the impact analysis in the EIR given it is located within or near the Project area. The entirety of Coyote Creek Parkway from Anderson Lake County Park to Hellyer Park is listed in Table 3.18-1, *Recreational Facilities in the Study Areas*. The text quoted by the commenter in Footnote 1 on page 3.18-17 has been revised as follows:

Coyote Creek Parkway South is a 9.2-mile level paved trail (with a separate unpaved path for horses) that goes from Metcalf Park in San José to Anderson Lake Visitor Center. This portion of Coyote Creek Parkway is, therefore, in the study area. Coyote Creek Parkway North is a 12.4-mile nearly level paved trail from Williams Street to Metcalf Park in San José.

Response to Comment A7-21

See Response to Comment A7-18 for a discussion of the differences between the Project Area and the study area, specifically as they pertain to recreation. The Project Area, as described in Final EIR Chapter 2, *Project Description*, encompasses all areas in and around the Project Area that could be impacted by the Project. The Project Area is stable and does not change; however,

in each specific analysis section included in the Final EIR, the description of the study area is refined to only include areas in and around the Project site that could experience impacts associated with that specific issue area. All impacts to recreational facilities within Coyote Creek Parkway are included in Section 3.18, *Recreation*, of the Final EIR. Impacts to other aspects of Coyote Creek Parkway that do not impact recreational use and access are addressed in those respective sections of the Final EIR, as appropriate.

Response to Comment A7-22

A lead agency is only required to respond to comments that raise significant environmental issues (CEQA Guidelines Section 15088(a)). To the extent that the comment summarizes legal authorities regarding CEQA and does not specifically address the adequacy, content, or impact conclusions of the Draft EIR, no further response is required.

See *Master Response 6 – Adequacy of EIR Baselines* regarding the approach to establishing baselines in the Draft EIR. As discussed therein, the EIR employs various baselines based on the Project components and nature of the resources being affected, reflecting the complexities of the Project and related circumstances. Each baseline choice was made with due consideration for the specific phase and type of impact to best represent the environmental impacts under CEQA. Master Response 6 includes Table 7-2 to provide further clarity on the baselines utilized in the Draft EIR by resource topic and Project component. The use of multiple baselines does not conflict with the requirements of CEQA Guidelines Section 15125(a)(1), which recognizes that an EIR may use both existing conditions and future baselines, and no changes to the baselines utilized in the Draft EIR are required.

Response to Comment A7-23

See *Master Response 6 – Adequacy of EIR Baselines* regarding the approach to establishing baselines in the Draft EIR. As discussed therein, the EIR employs various baselines based on the Project components and nature of the resources being affected, reflecting the complexities of the Project and related circumstances. Each baseline choice was made with due consideration for the specific phase and type of impact to best represent the environmental impacts under CEQA. Baselines were not established in an attempt to obscure or minimize environmental impacts. Valley Water recognizes that use of multiple environmental baselines can to an extent affect understanding of the EIR by the public. Master Response 6 includes Table 7-2 to provide further clarity on the baselines utilized in the Draft EIR by resource topic and Project component. The use of multiple baselines does not conflict with the requirements of CEQA Guidelines Section 15125(a)(1), which recognizes that an EIR may use both existing conditions and future baselines, and no changes to the baselines utilized in the Draft EIR are required.

Response to Comment A7-24

See *Master Response 6 – Adequacy of EIR Baselines* regarding the adequacy of the EIR baselines utilized in the Draft EIR. As discussed therein, the EIR employs various baselines based on the Project components and nature of the resources being affected, reflecting the complexities of the Project and related circumstances. Each baseline choice was made with due consideration for the specific phase and type of impact to best represent the environmental impacts under CEQA. Master Response 6 includes Table 7-2 to provide further clarity on the baselines utilized in the Draft EIR, including in the analysis of hydrology impacts. Using multiple baselines to

analyze hydrology impacts is necessary, because the hydrology of the Project Area undergoes changes during construction (e.g., reservoir dewatering) and into operations (e.g., implementation of FAHCE rule curves); evaluating both construction-phase and operational impacts with a single baseline would not accurately represent the complexity of these impacts. The comment does not indicate that how the choice of baselines for assessing hydrology impacts could have underrepresented Project impacts. The use of multiple baselines, including within the hydrology impact analysis, does not conflict with the requirements of CEQA Guidelines Section 15125(a)(1), which recognizes that an EIR may use both existing conditions and future baselines, and no changes to the baselines utilized in the Draft EIR are required.

Response to Comment A7-25

As clarified in Table 7-2 in Master Response 6 – *Adequacy of EIR Baselines*, the EIR utilizes the following baselines for assessing impacts to recreation:

- The Existing Conditions Baseline is used to assess construction-phase impacts of both the Seismic Retrofit and Conservation Measures, such as through temporary closures to existing recreational facilities during construction.
- The Pre-FERC Order and Future Baselines are used to assess impacts associated with post-construction Anderson Dam facilities operations and maintenance, which is focused on evaluating if Project operations would result in increased flows that could inundate existing recreational facilities.

The EIR employs various baselines, including in the recreational impact analysis, based on the Project components and nature of the resources being affected, reflecting the complexities of the Project and related circumstances. Each baseline choice was made with due consideration for the specific phase and type of impact to best represent the environmental impacts under CEQA. The comment does not indicate that how the choice of baselines for assessing recreational impacts could have underrepresented Project impacts. The use of multiple baselines does not conflict with the requirements of CEQA Guidelines Section 15125(a)(1), which recognizes that an EIR may use both existing conditions and future baselines, and no changes to the baselines utilized in the Draft EIR are required.

Response to Comment A7-26

The phrase "based on available information at the time of EIR preparation (2022)" is included in the Draft EIR, because environmental conditions and data can change over time. Preparation of the Draft EIR relied on the best available information at the time of its preparation, in this case 2022, aligning with legal precedent which establishes that lead agencies are not obligated to wait until they have all possible data before preparing an EIR (see *Kings County Farm Bureau v. City of Hanford* [1990], 221 Cal.App.3d 692). A lead agency has discretion to decide exactly how existing physical conditions without a project can most realistically be measured. *Neighbors for Smart Rail v. Exposition Metro Line Constr. Auth.* (2013) 57 Cal.App.4th 439, 453

Information presented in Draft EIR Section 3.7, *Energy*, represents the latest available energy audit data at the time of Draft EIR preparation, which is based on a report from 2013. While the 2013 report does not include audited information on Valley Water's Advanced Water Purification Facility (also known as the Silicon Valley Advanced Water Purification Center), it was noted that this facility is anticipated to use 8 million kWh of energy annually. This comment

provides no substantial evidence supporting the need for a revised analysis or conclusions regarding energy use from those in the Draft EIR. As such, there is no basis for additional analysis (.

Response to Comment A7-27

See Response to Comment A7-26 for a discussion regarding the use of the best available information at the time of EIR preparation. The Draft EIR does not omit energy generated by the Anderson Hydroelectric Facility. Energy historically generated by the Anderson Hydroelectric Facility is described in Draft EIR Section 3.7, *Energy*, on pages 3.7-5 through 3.7-7. The Draft EIR discloses that hydroelectric energy has historically been produced at Anderson Dam, but as stated on Final EIR page 3.7-22: “The Anderson Hydroelectric Facility would be removed and would no longer be available to be reactivated and generate electricity. Under existing conditions, the hydroelectric facility has not generated electricity since 2018. As mentioned above, Valley Water discontinued operations of the hydroelectric facility due to the increasing cost of operations and maintenance of the facility (Valley Water 2021b). Given the current, and near future, inability of the hydroelectric facility to provide any meaningful amounts of electricity, the hydroelectric facility is not currently considered as a local or regional energy supplier. Thus, energy supply planning would not consider the hydroelectric facility a source of near-term additional capacity.”

As further discussed on Final EIR pages 3.7-32 and 3.7-35, “the hydroelectric facility is not considered a local or regional energy supplier, nor would its existing non-operational status change with implementation of the Project”. Anderson Dam was not producing energy under the Existing Conditions Baseline, which is the baseline under which energy impacts are assessed. The choice of this baseline did not minimize the EIR’s portrayal of the Project’s energy impacts. As such, no changes to the Draft EIR related to energy production discussions or impacts are required.

Furthermore, information presented in Final EIR Section 3.9, *Greenhouse Gas Emissions*, represents the latest available data at the time of Draft EIR preparation. This comment provides no substantial evidence supporting the need for a revised analysis or conclusions regarding greenhouse gas emissions from those included in the Draft EIR. As such, there is no basis for additional analysis).

Response to Comment A7-28

See *Master Response 6 – Adequacy of EIR Baselines* for detailed discussion regarding the environmental baselines utilized in the Draft EIR and the rationale for their selection.

Response to Comment A7-29

As stated in Final EIR Section 3.0, *Environmental and Regulatory Setting and Impact Analysis*, on page 3-16, “For the Draft EIR cumulative impact analysis, specifically to account for FOCP impacts, the environmental baseline is defined as existing conditions prior to FOCP implementation (i.e., a Pre-FERC Order Baseline).” FOCP, including the 2020 drawdown of Anderson Reservoir, is one of the related projects considered in the cumulative analysis; therefore, a Pre-FERC Order existing conditions baseline is necessary to thoroughly assess the potential for cumulative environmental impacts associated, in part, with FOCP. See *Master*

Response 6 – Adequacy of EIR Baselines, which provides clarification on the environmental baselines utilized in the Draft EIR and the rationale for their selection.

Response to Comment A7-30

See *Master Response 6 – Adequacy of EIR Baselines* for a discussion regarding the adequacy of the EIR baselines utilized in the Draft EIR. As discussed therein, the EIR employs various baselines based on the Project components and nature of the resources being affected, reflecting the complexities of the Project and related circumstances. Each baseline choice was made with due consideration for the specific phase and type of impact to best represent the environmental impacts under CEQA. Baselines were not established in an attempt to obscure or minimize environmental impacts. Valley Water recognizes that use of multiple environmental baselines can to an extent affect understanding of the EIR by the public. Master Response 6 includes Table 7-2 to provide further clarity on the baselines utilized in the EIR by resource topic and Project component. The use of multiple baselines does not conflict with the requirements of CEQA Guidelines Section 15125(a)(1), which recognizes that an EIR may use both existing conditions and future baselines, and no changes to the baselines utilized in the Draft EIR are required.

Response to Comment A7-31

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required. The recreational facilities mentioned by the commenter – namely Anderson Lake County Park, Coyote Creek Parkway, and Hellyer Park – are included in Section 3.18.1, *Environmental Setting* (including Table 3.18-1, which lists recreational facilities within the study areas and Project vicinity, summarizes the facilities and amenities offered at each location, and uses that each area supports).

Response to Comment A7-32

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required. The recreational facilities mentioned by the commenter – namely Coyote Creek Trail and the Bay Area Ridge Trail – are included in Section 3.18.1, *Environmental Setting* (see Final EIR page 3.18-25).

Response to Comment A7-33

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A7-34

As discussed on Final EIR page 3.18-55, under the Pre-FERC Order Baseline, some downstream recreational facilities in Coyote Creek Parkway, such as portions of the Coyote Creek Trail, the Live Oak Picnic Area, and portions of Hellyer Park, are at risk of temporary inundation from storm events. Final EIR Section 3.18, *Recreation*, on page 3.18-55 states that in the Pre-FERC Order condition, the Coyote Creek Trail and portions of Hellyer Park are periodically inundated by Coyote Creek because several low flow crossings, including the crossing that leads to Velodrome at Hellyer Park, when flows exceed 25 cfs (when measured at the Edenvale Stream

Gage), which is exceeded approximately 13 percent of the time. This situation (referred to as the Pre-FERC Order condition in the Final EIR) is used as the baseline for the analysis of impacts to recreational facilities. While construction of the Seismic Retrofit component is underway, releases to Coyote Creek have the potential to inundate additional parkland downstream of Anderson Dam because natural runoff from the upper Coyote Creek watershed will not be stored behind the dam while it is under construction.

Natural runoff passing through Anderson Reservoir due to a 5-year event (estimated to have a 20 percent chance of occurring annually) is expected to have larger peak flows compared to the Pre-FERC Order condition and would occur for a longer period of time. Peak flows would inundate portions of the Coyote Creek Trail and portions of Hellyer Park. As discussed on Final EIR page 3.18-56, the modified releases flows from Anderson Dam to Coyote Creek could lead to larger releases downstream flows and wider park closures during the wet season, which could result in physical deterioration of other recreational facilities or the acceleration of the physical deterioration of those facilities. Therefore, this impact would be significant. Mitigation Measure REC-1, which has been revised in response to County comments, would require Valley Water to provide funding for and implementation of the future relocation and/or modification of recreational facilities within the Coyote Creek corridor to mitigate for inundation and other Project impacts on those facilities. Revised Mitigation Measure REC-1, as shown on Final EIR page 3.18-61, is presented below.

REC-1. Maintenance Reimbursement for Funding and Implementation of Park Facility Improvements within the Coyote Creek Corridor Closures During High Flow Events.

Consistent with a December 2024 agreement between Valley Water and Santa Clara County, Valley Water will contribute funding to support SCCDPR's future relocation and/or modification of recreational facilities within the Coyote Creek corridor to mitigate for inundation and other Project impacts on those facilities. Improvements would include repairs, relocation, and/or realignment of trails, bank stabilization, and installation of bridges and culvert crossings. The County will be responsible for the planning, design, and construction of these improvements, which will not be implemented until CEQA review, if required, is completed. Coordinate with the SCCDPR to develop an agreement for Valley Water to reimburse cost associated with additional maintenance activities that would be necessary to address high water conditions at park facilities during construction of the Seismic Retrofit component when flows exceed 500 cfs (measured at Madrone Gage) Activities that will be covered are trail repairs in areas that are inundated, bathroom repairs (if they are inundated), trail and parking lot sweeping, efforts to place additional signage along the trail, efforts to provide website updates, and debris removal.

Additionally, as discussed in Final EIR Section 3.18, *Recreation*, impacts to Coyote Creek Parkway and Hellyer Park due to inundation from post-construction Anderson Dam facilities operations would be less than significant. Furthermore, these impacts would be temporary, occurring only during storm events as described further below. As discussed on page 3.18-62 of the Final EIR, post-Project releases from the unrestricted Anderson Reservoir into Coyote Creek would conform to FAHCE Settlement Agreement operating rule curves. Under the Pre-FERC Order Baseline, some downstream recreational facilities in Coyote Creek Parkway, such as portions of the Coyote Creek Trail, the Live Oak Picnic Area, and portions of Hellyer Park, are at risk of

temporary inundation from storm events. As mentioned above, it is estimated that the low-flow crossings along Coyote Creek Trail are closed 13 percent of the time. As described in Final EIR Section 3.11, *Hydrology*, during post-construction Anderson Dam facilities operations, there would continue to be a risk of temporary inundation of these facilities during storm events, but those facilities would be inundated less frequently. In fact, as stated in Impact HYD-1(iv), the maximum modeled storm event that could briefly inundate these facilities for a few days would occur very rarely (approximately 0.04 percent of the time over the 49-year study period). Therefore, post-construction operations impacts would be less than significant.

The FAHCE-Plus Modified Alternative would have the same impacts to recreation as described in Section 3.18, *Recreation*.

Response to Comment A7-35

Past inundation and closure of the Coyote Creek Trail is acknowledged in the Final EIR as part of the Pre-FERC Order Baseline as described in Response to Comment A7-34. As stated therein, it is estimated that the low-flow crossings along Coyote Creek Trail are closed 13 percent of the time. As described in Final EIR Section 3.11, *Hydrology*, during post-construction Anderson Dam facilities operations, there would continue to be a risk of temporary inundation of these facilities during storm events, but those facilities would be inundated less frequently.

Response to Comment A7-36

As described under Response to Comment A7-34, the past inundation and closure of the Coyote Creek Trail is acknowledged in the Final EIR on page 3.18-55 as part of the Pre-FERC Order Baseline. As stated in Response to Comment A7-34, it is estimated that the low-flow crossings along Coyote Creek Trail are closed 13 percent of the time. As described in Final EIR Section 3.11, *Hydrology*, during post-construction Anderson Dam facilities operations, there would continue to be a risk of temporary inundation of these facilities during storm events, but those facilities would be inundated less frequently.

Response to Comment A7-37

This comment does not pertain to the adequacy or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A7-38

This comment does not pertain to the adequacy or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A7-39

The hydraulic modeling was conducted to assess flooding impacts during storm events and was not intended to represent flows during normal dam operations. As shown in Final EIR Section 3.11, *Hydrology*, Table 3.11-8 on page 3.11-62, a range of flood events was analyzed. The flood events ranged from a smaller, more frequent 50 percent annual chance flood event (2-year return period) to a larger, less frequent 0.2 percent annual chance flood event (500-year return period). See Responses to Comments A7-34 and A7-43 for additional discussion of flooding

impacts related to Coyote Creek Trail and Hellyer Park. The magnitude of flood events represents a reasonable range of storm events that are typically analyzed to assess flood risk and are not intended to assess the lower flows that could occur during dry weather.

As discussed in Final EIR Section 2.8.3, *Post-Construction Operational Rule Curves*, on pages 2-114 and 2-115, Anderson Reservoir operations would be governed by the FAHCE Settlement Agreement rule curves. Winter flows would range between 23 to 25 cfs, up to two spring pulse flows would release 50 cfs, summer flows would be a minimum of 1 cfs post-construction curves. As further discussed in Final EIR in Section 3.11, *Hydrology*, on page 3.11-50, baseflows resulting from implementation of the FAHCE Settlement Agreement rule curves would not be significantly different than the Pre-FERC Order Baseline, with the exception of the two 50 cfs spring pulse flows that would be higher than the typical baseline operating conditions. However, as stated on Final EIR page 3.11-49, 30 to 55 cfs releases are needed to maintain 2.5 cfs at the Edenville streamflow station, which is located approximately 14.8 miles downstream of Anderson Dam. Hellyer Park is located approximately 13 miles downstream of Anderson Dam; as such, even during pulse flows operational flows would not exceed 25 cfs at the Edenville streamflow station or result in additional flooding at Coyote Creek Trail or Hellyer Park. The FAHCE-Plus Modified Alternative would have the same impacts to recreation as described in Section 3.18, *Recreation*.

As discussed under Response to Comment A7-34, flooding that is currently occurring in Coyote Creek Parkway and Hellyer Park as a result of flows exceeding 25 cfs are considered to be part of existing conditions (Pre FERC Order Condition) used as the baseline for the hydraulic modeling and recreational impacts analysis in the Draft EIR. Because these conditions are not a direct result of the Project, they are not, nor are they required to be, analyzed or mitigated for in the Draft EIR.

Response to Comment A7-40

The Draft EIR provides full disclosure of the FAHCE rule curves and assesses the impacts of implementing them. Consistent with CEQA Guidelines § 15147, the EIR provides summarized technical data, tables, and figures to permit full assessment of hydrology impacts, and detailed technical data is included as supporting information in EIR Appendix K).

The FAHCE rule curves and their application are summarized in the Final EIR Executive Summary on page ES-24. Section 2.8.3, *Post-Construction Operational Rule Curves*, starting on page 2-114, provides a detailed description of the FAHCE rule curves, and Sections 3.4, *Biological Resources – Fisheries Resources*, and 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, disclose impacts on biological resources. The reservoir releases studied in the hydrological modeling used for Draft EIR analysis are modeled based on the FAHCE rule curves. Therefore, discussion of impacts based on hydrological modeling disclose impacts of the operation of the Project using FAHCE rule curves.

Response to Comment A7-41

See *Master Response 6 – EIR Baselines Adequacy* for a discussion of the baselines used in the Draft EIR and why these specific baselines were chosen and are appropriate. As described in Master Response 6, the Pre-FERC Order Baseline, rather than the Existing Conditions Baseline, was used to assess hydrologic impacts from post-construction operations, which reflects the

environmental conditions prior to modifications to these resource topics caused by the FOCP (i.e., prior to the reservoir drawdown to deadpool and FOCP). The baseline used to assess hydrologic impacts during construction was the Existing Conditions Baseline (post-FOCP), but the analysis also includes a comparison to the Pre-FERC Order Baseline. See Final EIR Section 3.0.2.2, *Post-Construction Operational Baselines*, for further information.

The commenter asserts that conclusions under the Pre-FERC Order Conditions Baseline are flawed due to higher flows being less relevant for evaluating impacts to the Coyote Creek Trail and Hellyer County Park. As stated above, the Pre-FERC Order Baseline was used to assess hydrologic impacts from post-construction operations. This baseline provides a meaningful reference point for analyzing hydrologic impacts because it reflects historical conditions prior to FOCP-related drawdowns. This baseline is applied to post-construction operational impacts, including for analyzing changes in downstream flow conditions in Coyote Creek, prior to modifications caused by the FOCP. The Pre-FERC Order Baseline conforms to CEQA Guidelines Section 15125(a)(1) guidance allowing historical conditions to be used when necessary to provide the most accurate picture of a project's impacts and represents operational conditions pre-dating the FERC Order seismic restrictions and FOCP facility upgrades (i.e., prior to the reservoir drawdown to deadpool and FOCP). This baseline serves as a benchmark for evaluating post-construction operational impacts by isolating the effects of seismic retrofit components and non-flow Conservation Measures. The use of this baseline ensures a consistent and representative analysis of Project impacts. Section 3.11, *Hydrology*, under Impact HYD-1 explains that while flows below 1,400 cfs would occur more frequently post-Project, higher flows that could result in more severe flooding impacts would occur less frequently. This demonstrates a net reduction in flood risk and associated impacts, even as certain low-flow conditions become more common. This analysis ensures the conclusions appropriately address impacts to recreational features such as the Coyote Creek Trail and Hellyer County Park.

Response to Comment A7-42

In response to this comment, the text on pages 3.5-119, 128, 141, 145, 160, 175, 176, 184, 185, and 206 of the Final EIR been modified as follows to clarify that post-construction operational flows would be similar to Pre-FERC Order Baseline Conditions:

As described previously in the general discussion of Project impacts on terrestrial biological resources, flows under the FAHCE rule curves will be generally similar to, those under 2017 conditions but possibly slightly lower than the Pre-FERC Order Baseline Conditions, while FAHCE flows are likely to be slightly higher than under the WEAP-modeled Future Baseline.

Response to Comment A7-43

Impact HYD-1iv (pages 3.11-62 through 3.11-70) and Impact HYD-2 (pages 3.11-70 through 3.11-75) in Final EIR Section 3.11, *Hydrology*, includes analysis of downstream hydrologic and flooding effects during construction and during post-construction operations, including frequency of flooding, and concludes that flooding impacts would be less than significant. In addition, Impact REC-1a (page 3.18-55) in Final EIR Section 3.18, *Recreation*, specifically addresses flooding to Coyote Creek Trail and Hellyer Park. The following discussion clarifies and expands the analysis of flooding impacts at these two recreational facilities provided in Final EIR Section 3.11, *Hydrology*, and Section 3.18, *Recreation*.

As discussed on Final EIR page 3.18-55, in the Pre-FERC Order condition, the Coyote Creek Trail and portions of Hellyer Park are periodically inundated at the locations of several low flow crossings, including the crossing that leads to the Velodrome at Hellyer Park, when flows in Coyote Creek exceed 25 cfs (when measured at the Edenvale Stream Gage), which is exceeded approximately 13 percent of the time. While Seismic Retrofit construction is underway, releases to Coyote Creek have the potential to inundate additional parkland downstream of Anderson Dam because water will not be stored behind the dam while it is under construction.

Coyote Creek Trail runs along Coyote Creek; therefore, flooding impacts to the trail are related to flooding impacts in Coyote Creek. Hydrologic modeling was conducted to assess potential flooding impacts during Seismic Retrofit construction. During Seismic Retrofit construction, flood flows would be increased during smaller storm events, but would be decreased during larger storm events. As discussed under Impact HYD-1iv (Final EIR pages 3.11-62 through 3.11-70) during smaller, more frequent storms (at or smaller than the 5 percent annual chance flood, or 20-year return period)¹, flows would be elevated during construction compared to the Pre-FERC Order Baseline (see Table 3.11-8). At the lower flow associated with smaller storms, there would be limited inundation beyond the immediate Coyote Creek streambanks. However, as discussed under Impact REC-1a on pages 3.18-55 and 3.18-60 of the Final EIR, due to the modified flows in Coyote Creek during construction, larger portions of Coyote Creek Trail and Hellyer Park may be inundated. Flows from a 5-year event (estimated to have a 20% chance of occurring annually) are expected to have larger peak flows compared to the Pre-FERC Order condition and would occur for a longer period of time. Therefore, Mitigation Measure REC-1, which has been revised in response to County comments as shown in Response to Comment A7-34, would require Valley Water to provide funding for and implementation of the future relocation and/or modification of recreational facilities within the Coyote Creek corridor to mitigate for inundation and other Project impacts on those facilities. Because impacts to recreational facilities due to flooding at these facilities would be reduced to a less-than-significant level through implementation of Mitigation Measure REC-1, no additional mitigation is required. For larger, less frequent storms (at or larger than a 2 percent annual chance flood, or 50-year return period)², flows would be reduced during construction compared to the Pre-FERC Order Baseline. The substantially greater capacities of the Stage 1 and 2 Diversion Systems available during Project construction compared to the outlet works that existed in the Pre-FERC Order Baseline conditions would enable dam operators to pass through more flows during a large storm event without the potential for an uncontrolled spillway release. In addition, the magnitude of the largest storms would be reduced substantially during construction compared to the Pre-FERC Order Baseline, due to the potential for uncontrolled spills from the dam to occur in the Pre-FERC Order Baseline. During construction, the Stage 1 and 2 Diversion Systems would be able to pass through more flows during a large storm event without the potential for an uncontrolled spillway release. During construction, flows during a 0.2 percent annual chance flood (500-year return period)³ are predicted to be 5,830 cfs compared to the 18,144 cfs flows that would occur for the Pre-FERC Order Baseline for the same storm event. In this respect, the potential for catastrophic flooding during Seismic Retrofit construction would be reduced downstream of the dam compared to the Pre-FERC Order Baseline conditions.

¹ A 5 percent annual chance flood, or 20-year return period, has a 5 percent (1 out of 20) chance of occurring in any given year.

² A 2 percent annual chance flood, or 20-year return period, has a 2 percent (1 out of 50) chance of occurring in any given year.

³ A 0.2 percent annual chance flood, or 500-year return period, has a 0.2 percent (1 out of 500) chance of occurring in any given year.

In regards to the commenter's concerns regarding Hellyer Park, Hellyer Park is projected to be fully inundated during flows that exceed 6,000 cfs as shown in Final EIR Figure 3.11-5 on page 3.11-90. As stated on page 3.18-55, flows below 5,000 cfs would be more likely to occur but flows greater than 6,000 cfs would be less likely to occur during Seismic Retrofit construction because smaller storm events occur more frequently than large storm events. As described above, flooding would also be reduced during construction compared to Pre-FERC Order Baseline during larger storms, including those exceeding 6,000 cfs during which Hellyer Park could be inundated. As shown in Final EIR Table 3.11-8, flows could exceed 6,000 cfs for storms at or above the 5 percent annual chance flood (50-year return period) in the Pre-FERC Order Baseline conditions. However, during construction, flows are not projected to exceed 6,000 cfs for any of the modelled storm events. As such, risk of catastrophic flooding at Hellyer Park would be reduced during Seismic Retrofit construction. It should also be noted that the magnitude of many of the storm events modeled and discussed in the Final EIR, including those exceeding 6,000 cfs, are exceptionally rare and unlikely to occur.

Hydrologic modeling was also conducted to assess potential flooding impacts during post-construction operations. As discussed under Impact HYD-1iv on Final EIR pages 3.11-62 through 3.11-70 under *Seismic Retrofit Post-Construction Operation and Maintenance*, while Anderson Dam is not intended or designed as a flood protection facility, it is operated to provide incidental flood protection downstream. During the post-construction period, the flood protection capability of Anderson Dam would be improved relative to the Pre-FERC Order Baseline conditions, because the improvements to the outlet works would allow for more rapid drawdown of the reservoir water level in the event of large storms. As discussed under Impact REC-1a on Final EIR page 3.18-59, Coyote Creek Trail and Hellyer Park could still be inundated during operation of Anderson Dam, but they would be inundated less frequently. The maximum modeled storm event that could briefly inundate these facilities for a few days would occur very rarely (approximately 0.04 percent of the time over the 49-year study period). As such, operation of the dam would reduce flooding in the downstream Coyote Creek Trail or Hellyer Park compared to the Pre-FERC Order Baseline conditions. The FAHCE-Plus Modified Alternative would have the same impacts to recreation as described in Section 3.18, *Recreation*.

Response to Comment A7-44

See *Master Response 6 – EIR Baselines Adequacy* for a discussion of the baselines used in the Draft EIR and why these specific baselines were chosen and are appropriate. As discussed therein, the Pre-FERC Order Baseline, rather than the Existing Conditions Baseline, was used to assess hydrologic impacts during post-construction operations, which reflects the environmental conditions prior to modifications to these resource topics caused by the FOC (i.e., prior to the reservoir drawdown to deadpool and FOC). See Final EIR Section 3.0.2.2, *Post-Construction Operational Baselines*, for further information. In addition, as discussed under Response to Comment A7-43, the flooding analysis for construction also included a comparison to the Pre-FERC Order Baseline.

Response to Comment A7-45

As detailed under Impact REC-1a on Final EIR page 3.18-61, Mitigation Measure REC-1 would mitigate recreational facility impacts from flooding on the Coyote Creek Trail and Hellyer Park to a less-than-significant level by requiring Valley Water to provide funding for and implementation of the future relocation and/or modification of recreational facilities within the Coyote Creek

corridor to mitigate for inundation and other Project impacts on those facilities. Because impacts to recreational facilities due to flooding at these facilities would be reduced to a less-than-significant level, no additional mitigation is required.

Response to Comment A7-46

As discussed under Response to Comment A7-34, some downstream recreational facilities in Coyote Creek Parkway, such as portions of the Coyote Creek Trail, the Live Oak Picnic Area, and portions of Hellyer Park, are at risk of temporary inundation from storm events. Natural runoff passing through Anderson Reservoir due to a 5-year event (estimated to have a 20 percent chance of occurring annually) is expected to have larger peak flows compared to the Pre-FERC Order condition and would occur for a longer period of time. Peak flows would inundate portions of the Coyote Creek Trail and portions of Hellyer Park. The modified releases flows from Anderson Dam to Coyote Creek could lead to larger releases downstream flows and wider park closures during the wet season. While flows during smaller storm events would have larger peak flows, larger flows (over 6,000 cfs) would be less likely to occur during the Seismic Retrofit construction and the duration of flows exceeding 300 cfs would be slightly decreased. Mitigation Measure REC-1, which has been revised in response to County comments, would require Valley Water to provide funding for and implementation of the future relocation and/or modification of recreational facilities within the Coyote Creek corridor to mitigate for inundation and other Project impacts on those facilities.

Response to Comment A7-47

As shown in Final EIR Table 3.11-8 in Section 3.11, *Hydrology*, on page 3.11-62 and discussed in further detail under Response to Comment A7-39, a range of flood events were analyzed. The flood events ranged from a smaller, more-frequent 50 percent annual chance flood event (2-year return period) to a larger less-frequent 0.2 percent annual chance flood event (500-year return period). See Response to Comment A7-43 for additional discussion regarding flooding impacts related to Coyote Creek Trail and Hellyer Park.

Response to Comment A7-48

This comment does not pertain to the adequacy or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A7-49

The commenter is referring to text on Final EIR page 3.1-36 in Section 3.1, *Aesthetics*, which states that “the analysis considers temporary impacts that may occur during the 7-year construction period.” In other words, the analysis considers temporary impacts that could occur for various durations throughout the 7-year construction period. This Final EIR section does not define temporary impacts as impacts that would occur continuously throughout seven years.

Temporary impacts to recreational facilities are summarized in Final EIR Table 3.18-3, *Closures and Changes to Recreational Facilities in the Project Area*, starting on page 3.18-37 of Section 3.18, *Recreation*. As discussed therein, most trails would experience intermittent and temporary closures at various points throughout the construction period.

Response to Comment A7-50

Final EIR Section 3.15, *Land Use*, on page 3.15-38 concluded that the Project would have temporary impacts related to recreational uses but ultimately would not result in significant impacts related to conflicts with a land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Specifically, the land use impact determination is that the Project would not alter existing recreational land use designations and would not permanently conflict with land use plans such as the Santa Clara Countywide Trails Master Plan. This conclusion is not inconsistent with the aesthetic impact analysis presented in Section 3.1, *Aesthetics*. The Final EIR aesthetic impact analysis on page 3.1-59 concludes that changes in topography visible from the Rosendin Park Area would result in significant and unavoidable aesthetics impacts related to recreational facility users, as the Project would alter the Project Area's topography and existing visual character. In other words, after construction, the Project would not conflict with recreational land use plans but would involve permanent alteration the Project Area's existing visual character and views; these conclusions address different aspects of the analysis and are not contradictory.

Response to Comment A7-51

Project impacts related to Coyote Creek Parkway are discussed in Final EIR Section 3.18, *Recreation*, on pages 3.18-54 through 3.18-64, and in Section 3.19, *Transportation*, on pages 3.19-29 through 3.19-43. Although Coyote Creek Parkway is discussed in Section 3.18, *Recreation*, and not Section 3.17, *Public Services*, potential impacts related to its use are adequately evaluated in Section 3.18. As discussed therein, the Final EIR considers impacts related to Coyote Creek Parkway users, and concludes that other regional and City parks would be able to accommodate Coyote Creek Parkway users that might be temporarily displaced as a result of Project construction (page 3.18-56 in Section 3.18, *Recreation*). Impacts related to Coyote Creek Parkway as they pertain to transportation circulation are also evaluated in Section 3.19, *Transportation*, on pages 3.19-29 through 3.19-34. As concluded therein, impacts to trails would be temporary and numerous alternatives exist. Transportation impacts associated with trail closures would be less than significant due to the temporary nature of the closures and the availability of other regional and City trails nearby, and the Project would have a less than significant impact related to conflicts with a program, plan, ordinance, or policy addressing bicycle and pedestrian facilities, including their use as commuting routes.

Based on the above response, the Final EIR adequately evaluates impacts of concern in this comment. Note that lead agencies are not required to use any of the Appendix G questions as thresholds of significance in an EIR. See *Save Cuyama Valley v. County of Santa Barbara* (2013) 213 Cal.App.4th 1059, 1068.

Response to Comment A7-52

See Response to Comment A7-43 for a discussion regarding flooding impacts related to Coyote Creek Trail and Hellyer Park.

Response to Comment A7-53

See Response to Comment A7-44 for a discussion regarding the baselines used to assess flooding impacts to Coyote Creek Trail and Hellyer Park.

Response to Comment A7-54

See Response to Comment A7-45 for a discussion regarding mitigation for flooding impacts to Coyote Creek Trail and Hellyer Park.

Response to Comment A7-55

See *Master Response 6 – Adequacy of EIR Baselines* regarding the adequacy of the EIR baselines utilized in the Draft EIR. The commenter is incorrect in generally stating that the “baseline is the Pre-FERC Order Condition,”⁴ but is correct in identifying the baselines for Seismic Retrofit and Conservation Measure Construction (Existing Conditions baseline) and Post-Construction Operations and Maintenance (Pre-FERC Order and Future baselines). As discussed in Master Response 6, the EIR employs various baselines based on the Project components and nature of the resources being affected, reflecting the complexities of the Project and related circumstances. Each baseline choice was made with due consideration for the specific phase and type of impact to best represent the environmental impacts under CEQA. Master Response 6 includes Table 7-2 to provide further clarity on the baselines used in the Draft EIR, including in the analysis of impacts to recreational facilities. The use of multiple baselines does not conflict with the requirements of CEQA Guidelines Section 15125(a)(1), which recognizes that an EIR may use both existing conditions and future baselines, and no changes to the baselines utilized in the Draft EIR are required.

Response to Comment A7-56

While the impact analysis included in Final EIR Section 3.18, *Recreation*, states that impacts to other recreational facilities would be dispersed across a large number of facilities in an unpredictable manner, the EIR takes a conservative approach and assumes that, while impacts would be dispersed, they could still be significant, specifically as they pertain to inundation of Coyote Creek Trail and Hellyer Park. Mitigation Measure REC-1, which has been revised in response to County comments, would require Valley Water to provide funding for and implementation of the future relocation and/or modification of recreational facilities within the Coyote Creek corridor to mitigate for inundation and other Project impacts on those facilities.

Response to Comment A7-57

As discussed under Responses to Comments A7-34 and A7-35, previous closures of portions of the Coyote Creek Trail and Hellyer Park during the 2022-2023 season are not a result of the Project and, as such, are not analyzed or required to be analyzed in the EIR. As discussed under Response to Comment A7-43, the modified flow releases to Coyote Creek could lead to larger releases and wider park closures (i.e., portions of the Coyote Creek Trail, the Live Oak Picnic Area, and portions of Hellyer Park) during the wet season than what is currently occurring, which could in turn result in physical deterioration to the portions of these recreational facilities impacted by flood flows, or the acceleration of the physical deterioration of these facilities if and where recreators concentrate within the portions of these facilities that remain open. While flows during smaller storm events would have larger peak flows, larger flows (over 6,000 cfs)

⁴ Note that the description of the Pre-FERC Order Conditions Baseline in Draft EIR Section 3.18.1.1, *Santa Clara County Parks and Recreation Department*, is intended to provide information on the environmental setting and context, rather than imply that the baseline is to be used for all recreational impact analysis.

would be less likely to occur during the Seismic Retrofit construction and the duration of flows exceeding 300 cfs would be slightly decreased. To address this impact, the Draft EIR includes Mitigation Measure REC-1, which has been revised in response to County comments, and would require Valley Water to provide funding for and implementation of the future relocation and/or modification of recreational facilities within the Coyote Creek corridor to mitigate for inundation and other Project impacts on those facilities. Mitigation Measure REC-1 is adequate in ensuring that substantial deterioration of these facilities does not occur.

Due to the large number of facilities in the Project Area, the Draft EIR assumed that individuals would utilize the extensive existing park network in the Project Area and vicinity for recreational purposes during closures due to Project construction, thereby reducing the impact on any one park or facility. As such, no new recreational facilities would be required to be constructed.

With regard to the commenter's statement that Coyote Creek Parkway and Hellyer County Park provide "sub-regional and regional connectivity," as stated on page 3.18-53 of the Final EIR, "CEQA Guidelines Appendix G suggests that projects may have a significant effect on recreational facilities if the Project would cause a substantial physical deterioration or would require construction or expansion of recreational facilities. However, the potential temporary or permanent loss of recreational opportunities at any particular location itself is not a physical environmental impact under CEQA." Therefore, construction of alternate facilities is not required as a mitigation measure. Impacts associated with bicycle and pedestrian facilities and circulation, including in the context of commuting and regional connectivity, are, however, addressed under Section 3.19, *Transportation*.

Response to Comment A7-58

As discussed under Response to Comment A7-43, flooding of the Coyote Creek Trail and portions of Hellyer Park are discussed in Final EIR Section 3.18, *Recreation*. As discussed therein, in the Pre-FERC Order condition, the Coyote Creek Trail and portions of Hellyer Park are periodically inundated by Coyote Creek, because of several low flow crossings that are present when flows exceed 25 cfs. However, while Seismic Retrofit construction is underway, releases to Coyote Creek have the potential to inundate additional parkland downstream of Anderson Dam because water will not be stored behind the dam while it is under construction. Flows from a 5-year event (estimated to have a 20 percent chance of occurring annually) are expected to have larger peak flows compared to the Pre-FERC Order condition and would occur for a longer period of time. Mitigation Measure REC-1, as presented in the Draft EIR, mitigated for flows exceeding 500 cfs because those are peak flows that could occur as a result of the Project. In response to County comments, Mitigation Measure REC-1 was revised to require Valley Water to provide funding for and implementation of the future relocation and/or modification of recreational facilities within the Coyote Creek corridor to mitigate for inundation and other Project impacts on those facilities, which is an approach that allows for greater flexibility in offsetting impacts to recreational facilities within the Coyote Creek corridor .

Response to Comment A7-59

As discussed under Response to Comment A7-43, based on the Final EIR analysis impacts to Coyote Creek Parkway and Hellyer Park due to inundation from post-construction Anderson Dam facilities operations would be less than significant. These impacts would be temporary, occurring only during storm events as described further below. As discussed on page 3.18-59 of

the Final EIR, post-Project releases from the unrestricted Anderson Reservoir into Coyote Creek would conform to FAHCE Settlement Agreement operating rule curves. Under the Pre-FERC Order Baseline, some downstream recreational facilities in Coyote Creek Parkway, such as portions of the Coyote Creek Trail, the Live Oak Picnic Area, and portions of Hellyer Park, are at risk of temporary inundation from storm events. It is estimated that the low-flow crossings along Coyote Creek Trail are closed 13 percent of the time. As described in Final EIR Section 3.11, Hydrology, during post-construction Anderson Dam facilities operations, there would continue to be a risk of temporary inundation of these facilities during storm events, but those facilities would be inundated less frequently. In fact, as stated in Impact HYD-1(iv), the maximum modeled storm event that could briefly inundate these facilities for a few days would occur very rarely (approximately 0.04 percent of the time over the 49-year study period). Therefore, operation of the dam would reduce flooding downstream along Coyote Creek Trail or Hellyer Park compared to the Pre-FERC Order Baseline conditions, and impacts would be less than significant. The FAHCE-Plus Modified Alternative would have the same impacts to recreation as described in Section 3.18, *Recreation*.

Response to Comment A7-60

Because portions of recreational facilities will be permanently closed, it is not practical to restore and revegetate all disturbed areas back to existing conditions. However, areas that can be restored and revegetated will be restored and revegetated. As summarized in Table 3.18-3 of the Final EIR (pages 3.18-37 through 3.18-40), the Toyon Group Picnic and Parking Area was previously closed as part of the FOCPP and would remain permanently closed and a portion of the Basalt Hill would be permanently closed. Therefore, it is not practicable to restore and revegetate these recreational facilities. As also summarized in Table 3.18-3, all other recreational areas would either have no permanent change or would be restored following construction completion. County-owned lands that would be disturbed by the Project would be restored in cooperation and in agreement with the County. Impacts to recreational facilities are evaluated in Section 3.18, *Recreation*, of the Final EIR, and considered the restoration and revegetation that would occur. As concluded under Impact REC-1b on page 3.18-63 of the Final EIR, overall, there would not be a substantial permanent reduction in the availability or quality of recreational uses in the Project area and impacts would be less than significant.

Response to Comment A7-61

Final EIR Section 3.19, *Transportation*, , has been revised to identify Coyote Creek Parkway as both a pedestrian and bicycle facility, consistent with the Santa Clara County Bicycle Master Plan which identifies Coyote Creek Parkway as an off street bike path (VTA 2018). The following edit was made on page 3.19-5 of the Final EIR to acknowledge Coyote Creek Parkway as a bicycle facility:

In addition, a portion of the study area is situated within San José (Phase 2 Coyote Percolation Dam Pond CM). The Phase 2 Coyote Percolation Dam Pond CM area is bound by Monterey Road to the southwest, US 101 to the northeast, and Metcalf Road to the southeast. Bicycle facilities located within the vicinity of the Phase 2 Coyote Percolation Dam Pond CM area include Class 2 bike lanes extending from Bernal Road to Metcalf Road. In addition, Coyote Creek Parkway is an off-street bikepath.

Additionally, impacts to Coyote Creek Parkway are described under Impact TR-1. Consistent with revisions to Mitigation Measure REC-1 and to recognize Coyote Creek Parkway as serving both pedestrians and bicyclists, page 3.19-32 has been revised as follows:

“However, due to the modified flows expected in Coyote Creek, larger portions of the Coyote Creek Trail and Hellyer Park may be inundated during construction, causing pedestrians and bicyclists to concentrate within the portions of the facility that remain open. The concentrated use of the open areas, in combination with high water conditions, could result in impacts to these recreational facilities, which are used by pedestrians and bicyclists. This would be a significant impact on pedestrian and bicycle facilities. Mitigation Measure REC-1 would require Valley Water to provide funding for and implementation of future relocation and/or modification of recreational facilities within the Coyote Creek corridor to mitigate for inundation and other Project impacts on those facilities improvements reimburse the SCCDPR for maintenance activities during construction that are triggered by flow events that are greater than 500 cfs (the existing outlet’s maximum capacity), thereby reducing impacts on pedestrian and bicycle facilities and preventing substantial conflicts with trails plans and policies. Seismic Retrofit component construction impacts would therefore be less than significant with mitigation.”

Coyote Creek Parkway and Coyote Creek Trail are also treated as recreational facilities. Final EIR Section 3.18, *Recreation*, discusses Coyote Creek Parkway in Table 3.18-1 on page 3.18-3. As described therein, Coyote Creek Parkway includes paved and unpaved multi-use trails which are utilized for “Biking, horseback riding, hiking, fishing, historic site, wildlife viewing, and picnicking”. Additionally, Final EIR Section 3.18, *Recreation*, page 3.18-17 (footnote 1), identifies Coyote Creek Parkway as: “Coyote Creek Parkway South is a 9.2-mile level paved trail (with a separate unpaved path for horses) that goes from Metcalf Park in San José to Anderson Lake Visitor Center. This portion of Coyote Creek Parkway is, therefore, in the study area. Coyote Creek Parkway North is a 12.4-mile nearly level paved trail from Williams Street to Metcalf Park in San José.”

Inundation impacts on Coyote Creek Trail are addressed in Final EIR Sections 3.18 *Recreation* and 3.19, *Transportation* as well as in Response to Comments A7-43 and A7-56 through A7-59, among others.

The March 2021 Bicycle Superhighway Implementation Plan also designates Coyote Creek Trail as “Built - will need upgrades to meet bike superhighway design recommendations.” Considering that Coyote Creek Parkway and Coyote Creek Trail are properly identified in the Draft EIR, that inundation impacts have been identified and clarified through the revisions discussed above, and that Coyote Creek Trail status as a bicycle superhighway is subject to design upgrades, the Draft EIR analysis of impacts is sufficient and no further changes to the Draft EIR are required.

Response to Comment A7-62

Impacts to public roads within the Project area are evaluated throughout the EIR. Impacts to East Dunne Avenue associated with landslides are discussed in Final EIR Section 3.8, *Geology and Soils*. As discussed therein under Impact GEO-4 starting on page 3.8-65), landslides along East Dunne Avenue have a history of movement during previous drawdowns of the reservoir

and during months of heavy rainfall, and construction activities could increase the risk of landslides. However, much of the reservoir drawdown was achieved as part of the FOCB and is therefore considered as part of the Existing Conditions Baseline. Landslides that occur during construction that impact existing improvements, including roads and other public infrastructure, would be repaired. Valley Water would also implement stabilization methods, such as but not limited to removal of slumped or cracked material, placement of engineered fill, slope drainage, retaining walls, slope reinforcement, anchor installation, or other ground stabilization work. Monitoring and potential repair activities would continue through Seismic Retrofit construction and initial filling of the reservoir. The Project would also include implementation of Mitigation Measure GEO-1, which would require Valley Water to monitor active landslide areas during the Seismic Retrofit Construction and initial filling of the reservoir, and if landslide movement is determined to have been caused by the Seismic Retrofit Construction and found to impact existing improvements, then Valley Water will implement ground stabilization methods to prevent further movement. With implementation of Mitigation Measure GEO-1, impacts would be less than significant. The Draft EIR analysis of impacts is sufficient and no changes to the Draft EIR are required.

Response to Comment A7-63

See *Master Response 6 – Adequacy of EIR Baselines*, for a discussion regarding how environmental baselines for the Project were determined in general. See Response to Comment A7-41 for a discussion on the adequacy of the baseline used for assessing hydrology impacts. See Response to Comment A7-43 for a discussion regarding historic and modeled flooding and flow rates (including comparison with baseline conditions), and Response to Comment A7-41 for discussion regarding determination of hydrology baselines. The analysis of hydrology impacts included a comparison to Pre-FERC Order Baseline, which reflect historic flow rates prior to the FERC order, as suggested by the commenter. Landslide impacts during construction are based on existing conditions, which is an appropriate baseline because the only condition that would be changed that could affect landslides would be the construction activities themselves and short-term and temporary drawdown of the reservoir to below deadpool levels during the retrofit of the dam. Given no changes to the Draft EIR are warranted in response to comments regarding environmental baselines (including as they pertain to hydrology, transportation, and recreation), no new significant impacts or mitigation have been identified, and no changes to the Draft EIR are required.

Response to Comment A7-64

See *Master Response 6 – Adequacy of EIR Baselines*, for a discussion regarding how the Existing Conditions Baseline was used to assess Project-related energy impacts. As explained in Final EIR Section 3.7, *Energy*, on page 3.7-6, the Anderson Hydroelectric Facility has been inactive since 2018, and there have been no plans to reactivate the facility given that nearly all of Valley Water's current energy use is from carbon-free sources, including hydroelectric, solar, and other renewables. Furthermore, as described on page 3.7-8, Valley Water determined that future energy investments are better used in other green energy projects with a better cost-benefit outlook. The hydroelectric facility primarily supplied electricity for Valley Water's own use from 1988 to 2018, which was replaced with other Valley Water owned electricity generation facilities, such as large-scale solar complexes and cooperative agreements with other facilities under PWRPA.

Consistent with the Cal. Code Regs. tit. 14 §15126.2, Project energy impacts were evaluated based on a comparison to existing physical conditions. Based on thresholds which are consistent with the CEQA Guidelines, Appendix F, the Draft EIR, , concluded that operations and maintenance of the Project would not result in the wasteful, inefficient, or unnecessary consumption of energy resources. No changes to the Draft EIR, e.g., additional conservation impact analyses, are required.

Response to Comment A7-65

As discussed under Response to Comment A7-64, an Existing Conditions Baseline was used to assess Project-related energy impacts, and the facility has been inactive since 2018 with no plans for reactivation. Since the facility is non-operational under existing baseline conditions, there would be no Project impact in terms of the potential to effect local and regional energy supplies, requirements for additional capacity, and peak and base period demands for electricity.

Response to Comment A7-66

Based on significance criteria that are consistent with CEQA Guidelines Appendices G and F, the Final EIR on page 3.7-32 concludes that operations and maintenance of the Project would not result in the wasteful, inefficient, or unnecessary consumption of energy resources, and therefore no mitigation of energy use, such as additional Project renewable energy features, is required. Nevertheless, the Final EIR (p. 3.7-33) recognizes that Mitigation Measures AQ-1 and GHG-1 would reduce the Project's non-renewable energy usage during construction and promote use of renewable diesel fuel. Further, construction of an updated hydroelectric facility is inconsistent with the Project's purpose to seismically retrofit, maintain, and operate Anderson Dam and Reservoir to meet FERC and DSOD safety requirements. No changes to the Draft EIR are required.

Response to Comment A7-67

As discussed under Response to Comment A7-64, an Existing Conditions Baseline was used to assess Project energy impacts and the facility has been inactive since 2018 with no plans to reactivate it. Since the facility is non-operational under existing baseline conditions, there would be no GHG impacts compared to existing conditions. Valley Water acknowledges the importance of a carbon-free energy future and procures nearly all of its current energy use from carbon-free sources, including hydroelectric, solar, and other renewables. As described in Final EIR Section 3.7, *Energy*, on page 3.7-8, Valley Water determined that future energy investments are better used in other green energy projects with a better cost-benefit outlook as opposed to the commenter's suggestion to bring the hydroelectric facility back online. The hydroelectric facility primarily supplied electricity for Valley Water's own use from 1988 to 2018, which was replaced with other Valley Water owned electricity generation facilities, such as large-scale solar complexes and cooperative agreements with other facilities under PWRPA. No changes to the Draft EIR are required.

Response to Comment A7-68

See *Master Response 6 – Adequacy of EIR Baselines* regarding the adequacy of the baselines utilized in the Draft EIR. As discussed therein, the Draft EIR employs various baselines based on the Project components and nature of the resources being affected, reflecting the complexities of the Project and related circumstances. Each baseline choice was made with due consideration for the specific phase and type of impact to best represent the environmental impacts under CEQA.

The study areas considered for each individual cumulative impact analysis depend on the environmental resource topic being studied, and study areas were selected to include only those areas in and around the Project site that could experience cumulative impacts associated with that specific resource topic. Final EIR Table 3.0-1 in Section 3.0.6.2, *Geographic Scope of Analysis*, provides the study areas used for each cumulative impact analysis.

CEQA Guidelines Section 15130(b)(3) states that “Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.” Final EIR Section 3.18, *Recreation*, on pages 3.18-1 through 3.18-14, identifies the study area and the specific recreational facilities considered for cumulative impacts. As described on Final EIR pages 3.18-1 and 3.18-2, this study area was selected to represent the range of recreational resources that could be affected by the Project including from direct construction impacts, impacts from increased usage due to closures or disruptions within and adjacent to the Project site, and ongoing effects that may occur due to the operational changes to Anderson Reservoir and Coyote Creek after completion of Project construction activities. The study area includes the recreational facilities along Coyote Creek, downstream of Anderson Dam, that could be impacted by changes in flood flows resulting from the Project. Final EIR Section 3.11, *Hydrology* on page 3.11-78, states that the study area to assess impacts to hydrological resources, including cumulative impacts, includes Coyote Creek to San Francisco Bay. This is an appropriate study area to analyze hydrologic impacts because sediment released during construction could reach San Francisco Bay. There is no inconsistency between the geographic area of the cumulative impact analysis for recreational resources and hydrologic resources. This comment provides no substantial evidence supporting the need for a revised analysis or conclusions regarding the geographic area of the cumulative impact analysis for recreational resources. Therefore, there is no basis for additional analysis and no further response is required.

Response to Comment A7-69

As stated in Final EIR Section 3.0.6.3, *Timing and Duration of Cumulative Impacts*, on page 3-16, cumulative impacts studied in the EIR include cumulative impacts during the 8-year construction period, short-term operational impacts that occur within 3-5 years following construction, and long-term operational impacts. Note that in the Final EIR the schedule for FOC completion has been adjusted from 2024 to 2026. Final EIR Section 2.8, *Post-Construction Anderson Dam Facilities Operation and Maintenance*, on pages 2-110 through 2-124 describe what it means for the reservoir to return to normal operation, including reservoir filling levels and reservoir outflows, including the four different release types, seasonal release flows, and rule curves governing storage and release flows. As such, the Draft EIR adequately describes post-construction operation of Anderson Dam and no changes are required.

Response to Comment A7-70

The timeframe column of Final EIR Table 3.0-2 describes the timeframe for the construction of each of the cumulative projects, or if already constructed, the operational status of each project, not the timeframe for which cumulative impacts related to that project are considered. Impacts from operation of the FOCF are considered as part of the cumulative impact analyses for all environmental resource topics, including impacts related to hydrology, recreation, public services, and transportation, during long-term operation of the Project. The inclusion of the FOCF as part of the cumulative impact analysis for hydrology, recreation, public services, and transportation is clearly identified Final EIR Tables 3.11-10, 3.18-4, 3.17-1, and 3.19-1, respectively. Therefore, no revisions to the Draft EIR cumulative impact analyses are required.

Response to Comment A7-71

The Project's potential to result in increased or redirected flood flows is addressed in Section 3.11, *Hydrology*, on pages 3.11-62 through 3.11-70 of the Final EIR. As discussed therein, increased potential for flooding in Coyote Creek would occur during construction of the Seismic Retrofit component, but these impacts would be temporary and based on modeling, would not result in widespread, damaging floods. During the post-construction period, flood risks associated with operation of the dam would be reduced. Section 3.11, *Hydrology*, pages 3.11-65, 3.11-69, and 3.11-70 of the Final EIR note that downstream recreational facilities in the area are prone to temporary flooding, and that the Project would alter flood flows and risk at these facilities, with an overall effect of reducing the maximum geographic extent of flooding and disruption of park facilities. The impacts of flooding on nearby recreational facilities, including Coyote Creek Parkway and Hellyer Park, is also discussed in Section 3.18, *Recreation*, on pages 3.18-59 and 3.18-60 of the Final EIR. Also see Response to Comments A7-34, A7-35, A7-39, A7-43, -45, A7-46, A7-57, and A7-58 for additional discussion of flooding-related impacts to recreational resources, as well as discussion of Mitigation Measure REC-1, which commits Valley Water to providing funding for and implementation of the future relocation and/or modification of recreational facilities within the Coyote Creek corridor to mitigate for inundation and other Project impacts on those facilities. As addressed in Section 3.11, *Hydrology*, on pages 3.11-53 through 3.11-55 and 3.11-58 of the Final EIR, the Project would result in less than significant flooding impacts on recreational resources and County roads with mitigation. Therefore, no additional mitigation measures, alternatives, or other changes to the Draft EIR are required.

Also, please note that total Project costs are not relevant to whether mitigation measures for significant impacts are required under CEQA.

Response to Comment A7-72

Valley Water's understanding is that the County would allow Valley Water to use some County-owned land to meet Project-related regulatory requirements for landscape-level habitat restoration and mitigation. Valley Water appreciates the County's interest in a collaborative strategy regarding parks and recreational facilities in the vicinity of the Project Area. However, the EIR is not a vehicle for making changes to the Project absent the proposed change reducing one or more identified unmitigated significant adverse environmental impacts. As described in Final EIR Section 3.11, *Hydrology*, and Section 3.18, *Recreation*, and as discussed under Responses to Comments A7-55, A7-68, A7-70, and A7-71, impacts related to recreational facilities due to potential Project-related flooding would be less than significant with mitigation.

Therefore, no changes to the Project or the Draft EIR are required, although the suggestion will be shared with decisionmakers for their consideration.

Response to Comment A7-73

The EIR is not a vehicle for making changes to the Project absent the proposed change reducing one or more identified unmitigated significant adverse environmental impacts. As described in Final EIR Section 3.11, *Hydrology*, and Section 3.18, *Recreation*, and as discussed under Responses to Comments A7-55, A7-68, and A7-70 through A7-72, impacts related to recreational facilities due to potential Project-related flooding would be less than significant with implementation of Mitigation Measure REC-1. Therefore, no changes to the Project or the Draft EIR are required, although the suggestion will be shared with decision makers for their consideration.

Response to Comment A7-74

As discussed throughout Responses to Comments A7-1 through A7-73, the Draft EIR contains information related to the adequacy of the Project description, Project area, use of environmental baselines, evaluation of environmental impacts, mitigation measures, and alternatives. The section and page number locations in the Final EIR where this information is provided is directly stated within each respective response to comment, where necessary. Aside from minor clarifications and a minor modification to Mitigation Measure REC-1, changes to the Draft EIR in response to the County's comments are not necessary. While portions of the Draft EIR were previously recirculated to address Project changes, the County's comments, Valley Water's responses to these comments and minor Draft EIR modifications to address some of these comments do not constitute "significant new information" that would require Draft EIR recirculation under CEQA Guideline § 15088.5. For example, responses to the County's comments show that there has been no disclosure of a new or substantially more severe significant impact, or identification of a new feasible project alternative or mitigation measure that would clearly lessen a significant unavoidable Project impact. Therefore, recirculation of the Draft EIR for the reasons suggested by the County is not required.

Responses to Comment Letter A8

Response to Comment A8-1

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A8-2

EIR Section 2.5.2.3, *Access Roads*, indicates that roadways would be closed to through traffic and would be limited to construction traffic and local residents. The following text on page 2-51 of the Final EIR has been revised to clarify that emergency vehicles and City of Morgan Hill vehicles would be permitted access at all times.

During times of roadway closure, secure access gates located at either end of the road closure would limit access to only construction-related vehicles and equipment, and local residents, and City of Morgan Hill vehicles and emergency vehicles.

Response to Comment A8-3

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures*, for a discussion of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed. See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of these changes.

Responses to Comment Letter A9

Response to Comment A9-1

This comment does not pertain to the adequacy, content, or impact conclusions of Draft EIR. No further response is required.

Response to Comment A9-2

Valley Water looks forward to continued collaboration with the San Jose PRNS on the ADSRP. This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A9-3

Figure 3.16-7 has been added to Section 3.16.4 the Final EIR on page 3.16-65 showing the location of modeled receptors R-21 through R-25 (R-21 and R-22 are most representative of recreational users at Metcalf Park). Figure 3.16-7 has changed to Figure 3.16-8. As shown in new Figure 3.16-7, receptor R-21 represents the approximate northern end of Metcalf Park, near proposed construction at the Coyote Percolation Dam. Receptor R-22 is located near the southern end of Metcalf Park.

Response to Comment A9-4

The following text revisions have been made in Section 3.18, *Recreation*, on page 3.18-1 of the Final EIR in response to this comment:

Information about the environmental setting for recreation was primarily gathered from websites and documents of the SCCPRD, California State Parks, City of Morgan Hill Department of Parks and Recreation, City of San José Department of Parks, and Recreation, and Neighborhood Services, Midpeninsula Regional Open Space District, and Santa Clara Open Space Authority.

Response to Comment A9-5

The following text revisions have been made to the Final EIR:

Section 3.18, *Recreation*, page 3.18-27:

The City of San José Department of Parks and Recreation oversees nine regional parks, 207 neighborhood parks, 290 park playgrounds, 48 community centers, and 61 operates more than 200 parks, including 60 miles of scenic trails (City of San José 2021h).

Section 3.18, *Recreation*, page 3.18-71:

.2021i. City of San José Annual Report on City Services 2021-22.
https://sanjose.granicus.com/DocumentViewer.php?file=sanjose_551439799d72a5bb25c5c4dfa4ada077.pdf&view=1

Response to Comment A9-6

As discussed in Section 3.18, *Recreation*, on page 3.18-57 of the Final EIR, the Phase 2 Coyote Percolation Dam CM would require temporary closure of undeveloped parkland within Metcalf Park. The areas outlined with red and yellow lining on Figure 3.18-3d on page 3.18-47 of the Final EIR indicate areas where Phase 2 Coyote Percolation Dam CM construction activities would occur. Based on this figure, the limits of construction activities overlap with the boundary of Metcalf Park. These areas would be intermittently closed and are indicated in brown in the figure (see legend item for *Intermittent Closure*). Figure 3.18-3d also shows that Coyote Creek Trail through Metcalf Park would also be intermittently closed.

Responses to Comment Letter A10

Response to Comment A10-1

The commenter expressed support for the Project and described the role of SCVOSA. This comment does not pertain to the adequacy, context, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment A10-2

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required. However, OSA's statement is correct that Valley Water's 2021 Groundwater Management Plan (GWMP; Appendix G) identifies parts of Fisher Creek and Laguna Seca as likely groundwater dependent ecosystems (GDEs). Valley Water's 2021 GWMP is a DWR approved Alternative plan, which considers the interests of all beneficial uses and users of groundwater, including GDEs, as required under the Sustainable Groundwater Management Act. Valley Water's 2021 GWMP also complies with Groundwater Sustainability Plan regulations that require the identification of GDEs. The 2021 GWMP has outcome measures related to groundwater storage that help maintain healthy groundwater levels, which, in turn, help maintain healthy GDEs. The 2021 GWMP does not have a specific outcome measure regarding "maintaining GDEs" but describes Valley Water's extensive groundwater monitoring networks and comprehensive groundwater management activities that will continue to ensure groundwater sustainability in the Santa Clara Subbasin and help support GDEs. As noted in the 2021 GWMP, the GDE maps will be revised and updated as new information becomes available during each five-year Alternative Plan update cycle.

Response to Comment A10-3

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required. However, Valley Water will consult the SCVOSA when drafting and developing the Coyote Creek Facilities Plan, which includes the Laguna Seca Groundwater Remediation.

November 1, 2023

Sincerely,



Ben Eichenberg, Staff Attorney (He/Him)
San Francisco Baykeeper 1736 Franklin Street, Suite 800 | Oakland, CA 94612
Office: 510-735-9700 x105
baykeeper.org

Responses to Comment Letter O1

Response to Comment O1-1

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment O1-2

Valley Water disagrees with the assertion that its water management has focused on maximizing water production at the cost of all other values. Valley Water's "Ends Policies," adopted by the Valley Water Board of Directors describe the mission, outcomes or results to be achieved by Valley Water staff. They include a healthy and safe environment for residents, businesses, visitors, and future generations (Ends Policy E3); and water resources stewardship to protect and enhance watersheds and natural resources, and improve the quality of life in Santa Clara County (Ends Policy E4).

Regarding the commenter's comments on the FAHCE Draft EIR, these were fully responded to in the FAHCE Final EIR (Section 6.3.8). The commenter's FAHCE Draft EIR comments were not attached to its comment letter on the ADSRP Draft EIR, and the commenter does not cite any specific FAHCE Draft EIR comments that are relevant to the ADSRP Draft EIR. The ADSRP includes both FAHCE rule curves (for post-construction operations), and FAHCE Phase 1 non-flow measures (as Conservation Measures), both intended to benefit Coyote Creek fisheries (see Final EIR page 1-10). This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment O1-3

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required. The commenter provides no evidence to support its assertion that fish in Coyote Creek are frequently subjected to flow conditions that are inadequate to maintain viable populations. Additionally, the assertion that fish populations are not in good condition is not supported by recent monitoring data that show native fish in the FCWMZ and O. mykiss at various age classes and in good body condition (Valley Water 2019a, 2020b, 2021d, 2021e, 2021f, 2022c).

Further, the FAHCE operating rule curves and habitat improvements associated with the Project would further improve conditions for fish and provide habitat necessary to achieve all life history requirements of steelhead and other anadromous fish. The commenter bases concerns associated with flow on past operations. The FAHCE flows have not been implemented but would occur in the future. Also, the Project, as well as the FAHCE-Plus Modified Alternative, provides flows that would interact with the habitat restoration CMs designed to greatly improve conditions for native fish in Coyote Creek in the future, post-construction.

Response to Comment O1-4

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required. However, see Response to Comment O1-3. The commenter provides no evidence to support its assertion that fish in Coyote Creek are frequently subjected

to flow conditions that are inadequate to maintain viable populations. Additionally, the assertion that fish populations are not in good condition is not supported by recent monitoring data that show native fish in the FCWMZ and *O. mykiss* at various age classes and in good body condition (Valley Water 2019a, 2020b, 2021d, 2021e, 2021f, 2022c)

Although the commenter states in its comments that the EIR is required to include a fish in good condition analysis, there is no requirement under the CEQA statute, the CEQA Guidelines, nor CEQA case law to do so. The EIR fully discloses the physical fisheries and aquatic resources impacts caused by the Project and action alternatives, which are beneficial over the long term for fisheries resources. Nothing in CEQA requires the EIR to contain a separate fish in good condition analysis or include fish in good condition as a Project objective.

Response to Comment O1-5

See Response to Comment O1-4 with regard to a fish in good condition analysis. An assemblage of fish in this system is well known and documented. The EIR contains a list of special-status species in the study area in Table 3.4-1, and analyzes Project impacts on special-status species that are present in the study area, including all the species identified by the comment, in Section 3.4.4. The species list is derived from several monitoring studies that are provided as references.

Response to Comment O1-6

See Response to Comment O1-4 with regard to a fish in good condition analysis. The Project and FAHCE AMP includes measurable objectives (see EIR Appendix D) for Coyote Creek. Specifically, Appendix D includes Coyote Creek biological goals and measurable objectives for these goals that meet “SMART criteria.” It also includes details on monitoring programs, triggers for adaptive actions, and potential adaptive actions if measurable objectives are not being met.

Response to Comment O1-7

See Response to Comment O1-4 with regard to fish in good condition analysis. Appendix D provides measurable objectives that include flows, rearing and spawning habitat, and migratory conditions. The table in Appendix D includes several environmental proxies including habitat objectives for the following biological goals:

- Maintain flows in Coyote Creek that support steelhead rearing habitat during the winter and spring
- Provide steelhead attraction flows during up and downstream migration
- Provide sufficient water depth during adult migration
- Provide sufficient water depth during smolt migration
- Provide suitable water temperatures for steelhead rearing during summer within the FCWMZ
- Avoid stranding
- Provide safe, effective, and timely upstream and downstream steelhead passage
- Restore riverine function, provide fish passage, enhance rearing habitat
- Increase steelhead spawning habitat, high-flow floodplain habitat and habitat complexity
- Supplement sediment and spawning gravels downstream of Anderson Dam

Response to Comment O1-8

The comparison that the commenter suggests is not one that is necessary for CEQA analysis. Although the commenter implies that the EIR is required to include a fish in good condition analysis, as explained in Response to Comment O1-4, there is no requirement under the CEQA statute, the CEQA Guidelines, nor CEQA case law to do so. The Draft EIR fully discloses the physical fisheries and aquatic resources impacts caused by the Project and action alternatives, which are largely beneficial over the long term. Nothing in CEQA requires the EIR to contain a separate fish in good condition analysis or include fish in good condition as a Project objective.

Nevertheless, Valley Water did analyze the flows necessary to achieve biological objectives through the WEAP modeling and determined that the flows necessary to support native fish would be provided through the post-construction operations.

Response to Comment O1-9

The fish in good condition requirement is not a CEQA requirement, but rather derives from Fish and Game Code Section 5937, which requires a dam owner to allow sufficient water to keep fish in good conditions below the dam. The FAHCE flows included as a Project component ensure Valley Water's continued compliance with Fish and Game Code Section 5937 and other applicable laws, and improve fisheries conditions consistent with the FAHCE *Settlement Agreement's* overall management objectives.

Although the commenter asserts that the EIR is required to include a fish in good condition analysis, there is no requirement under the CEQA statute, the CEQA Guidelines, nor CEQA case law to do so. The Draft EIR fully discloses the physical fisheries and aquatic resources impacts caused by the Project and action alternatives, which are largely beneficial over the long term. Nothing in CEQA requires the EIR to contain a separate fish in good condition analysis or include fish in good condition as a Project objective.

Courts may not interpret CEQA or the CEQA Guidelines in a manner that would impose procedural or substantive requirements beyond those explicitly stated in the CEQA statute or the CEQA Guidelines. (PRC Section 21083.1). CEQA and the CEQA Guidelines do not require fish in good condition nor public trust analyses, so omission of specific EIR sections analyzing these topics does not make the EIR inadequate.

Response to Comment O1-10

The commenter misstates the complete Project purpose, which, as stated on page ES-3 of the Final EIR, is to "seismically retrofit, maintain, and operate Anderson Dam and Reservoir to meet FERC and DSOD safety requirements, thereby allowing Valley Water to maximize water supply and related incidental benefits, while avoiding and minimizing environmental impacts of the implementation of those safety directives and requirements." "Related incidental benefits" include fisheries flows. Regulatory requirements for in-stream environmental flows are described in the fisheries resources regulatory setting in Section 3.4.2 and include Fish and Game Section 5937.

As stated in Response to Comment O1-9, the fish in good condition requirement is not a CEQA requirement, but rather derives from Fish and Game Code Section 5937, which requires a dam owner to allow sufficient water to keep fish in good conditions below the dam. The FAHCE flows

included as a Project component ensure Valley Water's continued compliance with Fish and Game Code Section 5937 and other applicable laws, and improve fisheries conditions consistent with the FAHCE *Settlement Agreement's* overall management objectives.

Although the commenter implies that the EIR is required to include a fish in good condition analysis, there is no requirement under the CEQA statute, the CEQA Guidelines, nor CEQA case law to do so. The Draft EIR fully discloses the physical fisheries and aquatic resources impacts caused by the Project and action alternatives, which are largely beneficial over the long term. Nothing in CEQA requires the EIR to contain a separate fish in good condition analysis or include fish in good condition as a Project objective.

Courts may not interpret CEQA or the CEQA Guidelines in a manner that would impose procedural or substantive requirements beyond those explicitly stated in the CEQA statute or the CEQA Guidelines. (PRC Section 21083.1). CEQA and the CEQA Guidelines do not require fish in good condition analyses, so omission of specific EIR sections analyzing these topics does not make the EIR inadequate.

Response to Comment O1-11

Regarding adding fish in good condition as a "goal" of the EIR or adding fish in good condition analysis to the EIR, please see Response to Comment O1-10.

Response to Comment O1-12

Valley Water disagrees with the assertion that Valley Water does not operate its dams, specifically Anderson Dam, under Pre-FERC Order conditions, to maintain fish in good condition. The commenter cites a 2017 report that summarized results during a sampling period in summer and fall of 2017 and stated, "Apparently, the last potential smolts to successfully emigrate in Coyote Creek were in 2013. The unsuitable flow conditions, and the barrier at Singleton Road, have resulted in passage bottlenecks that have eliminated most or all Steelhead production for the past five years, potentially extirpating Steelhead."

Extensive steelhead monitoring in Coyote Creek has been conducted more recently than 2017 as listed in Section 3.4.1. These information sources were used to develop the Steelhead Occurrence in the Fisheries Resources Study Area (see Final EIR page 3.4-16 through 3.4-18). Coyote Creek currently supports anadromous runs of steelhead. Between 2018-2022, over 300 fish, a majority of them juveniles, were captured in Coyote Creek in the summer and fall, showing that *O. mykiss* reproduced in the FCWMZ, even during drought conditions (Valley Water 2019a, 2020b, 2021d, 2021e, 2021f, 2022c).

The Project would provide winter base flows, spring pulse flows, summer base flows, and flow ramping to improve habitat for native species as described in Section 2.8.3. Lastly, in conjunction with the owner, the City of San Jose, Valley Water helped remove the Singleton Road fish barrier in 2021 replacing the crossing with a clear span bridge that now provides unimpeded passage for fish to over 17 miles of upstream habitat (Final EIR page 3-19).

Response to Comment O1-13

The Project includes components and Conservation Measures that address Dr. Smith's recommended habitat improvements. Habitat improvements at Ogier Ponds would be

implemented by the Ogier Ponds CM (Section 2.6.1) which would remediate temperature problems of Ogier Ponds by separating the ponds from the active channel so cold water releases could pass downstream through the restored channel instead of slowing and warming in the ponds. The removal of the Singleton Road low-water crossing was completed in 2021 as described on Final EIR page 3-19. Project operation would provide winter base flows, spring pulse flows, summer base flows, and flow ramping to improve habitat for native species and migratory opportunities for anadromous fish as described in Section 2.8.3 and analyzed in Section 3.4.4.

Response to Comment O1-14

The comment does not indicate specifically how the EIR fails to address barriers (including thermal barriers) and dams in the Coyote Creek Watershed. The fisheries resources environmental setting (Section 3.4) describes the existing conditions of fisheries as influenced by existing barriers and dams in the Coyote Creek Watershed. The Project includes Conservation Measures and Project components (including remaining FAHCE *Settlement Agreement* priority barrier remediation projects) that address many of these barriers (including thermal barriers) and dams.

Per CEQA Guidelines Appendix G, Question IV(a), the EIR's fisheries impact analysis is properly focused on "special-status species" and their habitat. Impacts to special-status fish species and their habitat within the study area are evaluated in Section 3.4.4. Table 3.4-1 lists all the special-status fish species evaluated in the EIR. An analysis of other fish species present in the watershed is not required by CEQA, and the comment provides no evidence that the Project's CEQA impacts on non-special status fish species could be significant.

Response to Comment O1-15

California's public trust doctrine states that certain natural resources must be held in trust by the government for use and enjoyment by the people of the State. When SWRCB considers whether to approve Valley Water's proposed water rights amendments, it will consider the effects on public trust resources. Although the State is primarily responsible for administering the public trust, Valley Water, as a subdivision of the State, also may share responsibility for administering the public trust for water resources management decisions (see *Environmental Law Foundation v. State Water Resources Control Board* [2018] 26 Cal. App. 5th 844, 867–869).

Although the commenter asserts that the EIR is required to mention the public trust and include a public trust analysis, there is no requirement under the CEQA statute, the CEQA Guidelines, nor CEQA case law to do so. The Draft EIR fully discloses the physical fisheries and aquatic resources impacts caused by the Project and action alternatives, which are largely beneficial over the long term.

Courts may not interpret CEQA or the CEQA Guidelines in a manner that would impose procedural or substantive requirements beyond those explicitly stated in the CEQA statute or the CEQA Guidelines. (PRC Section 21083.1). CEQA and the CEQA Guidelines do not require public trust analyses, so omission of specific EIR sections analyzing these topics does not make the EIR inadequate. Nevertheless, when an EIR such as the ADSRP EIR does include an analysis of impacts on public trust resources, a lead agency's obligations under the public trust doctrine can be satisfied (*San Francisco Baykeeper Inc. v. State Lands Commission* [2015] 242 Cal. App. 4th

202, 241). The Draft EIR fully disclosed the physical fisheries and aquatic resources impacts caused by the Project and action alternatives, which are largely beneficial.

Nevertheless, the Project and FAHCE AMP included in the EIR is designed to satisfy the measurable objectives defined in the FAHCE *Settlement Agreement* and the FAHCE FHRP (Chapter 6), and to assure the long-term management and effectiveness of Project Conservation Measures (see Final EIR Section ES.6.7, Table 2-1, Section 2.10, and Appendix D).

Response to Comment O1-16

Regarding Valley Water's obligations to keep fish in good condition, see Response to Comments O1-10 and O1-12. Regarding SMART objectives, see Response to Comments O1-6, O1-7, and O1-9.

Responses to Comment Letter O2

Response to Comment O2-1

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment O2-2

Impacts and mitigation associated with FOCF are included in the EIR to inform the analysis by providing a description of the existing conditions in and around the Project site and to establish one of the environmental baselines against which impacts are measured. As described in *Master Response 6 – Adequacy of EIR Baselines*, the Existing Conditions Baseline, which includes FOCF-related upgrades to the existing Anderson Dam and reservoir facilities, is used as the basis for evaluation of most construction-phase impacts. Therefore, information on FOCF is included where it is necessary to support the impact analysis and conclusions. No changes to the Draft EIR are required.

Response to Comment O2-3

See *Master Response 6 – EIR Baselines Adequacy* for a discussion of the baselines used in the EIR and why these specific baselines were chosen and are appropriate. There is no “Construction Phase Baseline” defined in the EIR. The Existing Conditions Baseline, as described in *Master Response 6 – EIR Baselines Adequacy*, is referred to as “FOCF Construction Phase Baseline” on page 3.5-77; however, in this use it is clarified in the Draft EIR to specify that this means “existing conditions as modified by the FOCF.” Nevertheless, in the interest of clarity, the following text revision has been made to Final EIR Section 3.5, *Wildlife and Terrestrial Resources*, on page 3.5-80:

During Seismic Retrofit construction, Anderson Reservoir would be largely dewatered, so less water would be available for release into Coyote Creek during construction than under Pre-FERC Order and Existing Conditions during FOCF Construction Phase Baseline conditions (i.e., existing conditions as modified by the FOCF).

Response to Comment O2-4

The Draft EIR does not “piecemeal” the Project description. As described in detail throughout Chapter 2, *Project Description*, the Anderson Dam Tunnel Project (ADTP) is part of the ongoing separate FOCF Construction that is currently underway at the Project site. Changes to the Project site due to FOCF construction, including ADTP implementation, are part of the existing conditions used for analysis of many of the Project’s impacts throughout the EIR. FOCF is considered a separate project under CEQA given the project is single and complete action that has independent utility separate from ADSRP. Each of the FOCF project components is necessary for an integrated FOCF emergency response project, both to prevent or mitigate against catastrophic dam failure, and to avoid and minimize environmental or water supply impacts of such emergency response actions.

The FOCF was determined to be eligible for a Statutory Exemption under Public Resources Code Section 21080 (b)(4) and CEQA Guidelines Section 15269 (c) that are for specific actions

necessary to prevent or mitigate an emergency. A Notice of Exemption for FOCP was filed in June 2020.

The Draft EIR is not required to evaluate existing conditions or impacts from separate projects (aside from in the cumulative impact analysis), and is only required to evaluate changes from existing conditions that would result from construction and operation of the Project. The impacts of the FOCP combined with the impacts of the Project are evaluated in the cumulative impact analyses at the end of each Draft EIR resource section.

Response to Comment O2-5

The MMRP for ADSRP will be separate from FOCP (including ADTP and North Channel Extension projects) because FOCP is a separate project under CEQA that has been determined to be statutorily exempt. Because FOCP was analyzed in 2020 and determined to be eligible for a Statutory Exemption under CEQA, there is no MMRP for FOCP and one is not required under CEQA. Although the FOCP does have an associated HMMP to address impacts under the jurisdiction of the environmental regulatory agencies, the provisions in the FOCP HMMP are not considered EIR mitigation measures for the reason discussed above.

Response to Comment O2-6

Valley Water has communicated separately with the commenter to provide a copy of the FOCP HMMP. This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment O2-7

The number of trees to be removed by the Project (approximately 670) is provided in Table 3.1-4 of the Final EIR. As stated on pages 3.1-39 and 3.1-40, the Project incorporates Valley Water BMPs and VHP AMMs that would include replanting some Project areas with native species similar in size and type to those being removed, and Mitigation Measure AES-1 would require native trees of similar size and type to be planted in the areas where removal of mature, healthy native trees has occurred and caused significant impacts on scenic resources. As a result, many of the trees to be removed will be replaced. Project compliance with the VHP will include payment of VHP impact fees, which contribute to the VHP's conservation program that protects, enhances, and manages a wide variety of woodlands, forests, and other land cover types. Thus, with VHP compliance and implementation of BMPs, AMMs, and Mitigation Measure AES-1, Project impacts on trees would be less than significant.

Cumulative impacts on visual resources resulting from tree removal by the FOCP (including ADTP) and ADSRP are addressed in Cumulative Impact AES-2 on pages 3.1-66 and 3.1-67 of the Final EIR. That impact is considered cumulatively considerable due to the combined impacts of these projects on trees. In addition to the approximately 670 trees that are proposed to be removed by the ADSRP, approximately 474 trees have been removed by the FOCP.

Cumulative impacts on sensitive natural communities such as oak and riparian woodlands are addressed on pages 3.5-217 and 3.5-218 of the Final EIR, and cumulative impacts related to conflicts with tree ordinances are addressed in the Draft EIR on page 3.5-222. These cumulative impacts are not considered cumulatively considerable, even when considering the combined tree impacts from the FOCP (including ADTP) and ADSRP. Nevertheless, the Final EIR notes that

Valley Water is implementing Mitigation Measure AES-1 to replace many of the trees impacted by the Project.

Response to Comment O2-8

As recommended by the CEQA Guidelines, the EIR assesses impacts to sensitive natural communities in Impacts TERR-2 (pages 3.5-179 through 3.5-189 of the Final EIR) and TERR-3 (pages 3.5-189 through 3.5-203 of the Final EIR). Those impact analyses include mixed riparian woodland and forest, coast live oak forest and woodland, foothill pine-oak woodland, mixed serpentine chaparral, and the reservoir, pond, perennial stream, intermittent stream, and coastal and valley freshwater marsh land cover types. These sections address entire communities, thus encompassing the plant and animal species occurring within those communities.

Response to Comment O2-9

Please see the Response to Comments O2-7 and O2-8, which discuss the Draft EIR's assessment of impacts on trees and natural communities. The assessment of impacts on natural communities in Impacts TERR-2 and TERR-3 include impacts on trees, as those impact assessments assume that the entire areas within the Project boundaries may be impacted. For example, the Project assumed that all the land cover/natural community types shown on Figures 3.5-2 through 3.5-5 of the EIR would be impacted, and therefore no additional vegetation removal plans (as requested by this comment) are necessary.

Valley Water disagrees with the suggestion that no mitigation measures for tree removal are proposed. As discussed in the Response to Comment O2-7, Mitigation Measure AES-1 would require native trees of similar size and type to be planted in the areas where removal of mature, healthy native trees has occurred and caused significant impacts on scenic resources. As a result, many of the trees to be removed will be replaced. Further, the Project's compliance with the VHP includes payment of impact fees that contribute to the VHP's extensive conservation program, which includes the restoration, enhancement, management, and preservation of a number of natural communities dominated by trees.

Response to Comment O2-10

Valley Water does not agree that mitigation for removal of oak woodland is necessary to meet Santa Clara County requirements. The Santa Clara County Planning Office *Guide to Evaluating Oak Woodlands Impacts* (Santa Clara Planning Office 2011) presents guidelines for Santa Clara County's evaluation of oak woodlands impacts when it serves as a CEQA lead agency, pursuant to Public Resources Code Sec. 21083.4. However, these guidelines do not apply to projects where Valley Water is the lead agency and therefore do not apply to the Project.

Response to Comment O2-11

Regarding mitigation measures for tree replacement, please refer to Response to Comments O2-7 and O2-9. No additional mitigation for impacts to trees, beyond that proposed in the EIR, is necessary.

Response to Comment O2-12

Valley Water does not agree with the comment that Mitigation Measure TERR-1j (Contribution to Baylands Predator Management) does not contain sufficient information. As discussed on pages 3.5-178 and 3.5-179 of the Final EIR, the predator management described in Mitigation Measure TERR-1j would be performed by the U.S. Department of Agriculture Animal and Plant Health Inspection Service (APHIS) under the direction of the Don Edwards San Francisco Bay National Wildlife Refuge. This mitigation measure has been revised to clarify that management would include both mammalian and avian predators (please refer to Response to Comment A1-11). The precise details of management – which specific species would be managed, where, and when – is best determined by expert Refuge staff, who best understand the most pressing predation issues on the Refuge at any given time.

Response to Comment O2-13

Valley Water will update the EIR as appropriate in the context of responses to comments on, and edits to, the Draft EIR. However, these comments have not identified any issues or required Draft EIR revisions that warrant recirculation of the EIR under CEQA Guidelines Section 15088.5.

Responses to Comment Letter O3*Response to Comment O3-1*

Valley Water has communicated separately with the commenter to provide a copy of the FOCP HMMP. This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

**Comment Letter O4- Holiday Estates Maintenance Association, Inc.
(HEMA), Claudia Martinez (1)**

Letter O4

Holiday Estates Maintenance Association, Inc.

Common Interest Management Services
262 East Hamilton Avenue, Suite D
Campbell, CA 95008
(408) 370-9902
(408) 371-5313

November 8, 2023

To: Valley Water
Re: Wildfire Risk- Lake Anderson

To whom it may concern,

The enclosed letter is being submitted on behalf of the Board of Directors for Holiday Estates Maintenance Association, regarding the wildfire risk in and surrounding Lake Anderson.

If you have any questions please contact our office at 408-370-9902 extension 572 or via email at ccmartinez@commoninterest.com.

O4-1

Sincerely,

Claudia Martinez, CACM, AMS
Common Interest Management Services
On behalf of the Holiday Estates Maintenance Association Board of Directors

	Fire Name	Fire Date	Acreage	Ignition Source
2	McDonald Fire	7/21/2011	40 to 50	Water drilling rig
3	Dunne Fire	6/22/2019	½	Vehicle fire

248

249

b. Those involving **illegal** activity

	Fire Name	Fire Date	Acreage	Ignition Source
1	Lick Fire	9/12/2007	47,760	Illegal burning of trash
4	Park Fire	7/4/2020	343	Illegal fireworks
6	<July 4, 2023, Dunne> near Rustling Oak Ct/Ln	7/4/2023	unknown	Illegal fireworks
7	Cochrane Fire	8/16/2023	72	Vehicle fire (illegal littering)
8	<Shady Incident>	8/23/2023	unknown	Vehicle collision (illegal speeding)

O4-14
cont.

250

251

252

253

254

255

256

257

258

259

260

261

262

263

264

265

266

267

3. The fires vary greatly in size from ½ acre or less to 396,624 acres.
4. Two fires (Park Fire and Shady Incident) were or could have been fast-onset run-for-your-life fires.
5. The fires are in all different directions from Holiday Lake Estates

6. The fires were in all different directions with respect to Holiday Lake Estates as shown below:

	Fire Name	Fire Date	Acreage	Direction from Holiday Lake Estates
1	Lick Fire	9/12/2007	47,760	North
2	McDonald Fire	7/21/2011	40 to 50	West
3	Dunne Fire	6/22/2019	½	East
4	Park Fire	7/4/2020	343	East
5	SCU Lightning Complex	9/16/2020	396,624	North, East, South
6	<July 4, 2023, Dunne> near Rustling Oak Ct/Ln	7/4/2023	unknown	West
7	Cochrane Fire	8/16/2023	72	West, North
8	<Shady Incident>	8/23/2023	unknown	South/in HLE

268

O4-15

332 NOTE: In the infamous email from Dwight Good (**Less fuel = less heat insult in a**
 333 **conflagration.**”) there is a risk that a fire starts a conflagration and endangers the lives of 3,467
 334 people at over 1113 homes.

O4-20
cont.

335
 336 Wildfire risk is like dam failure risk. Both are “low probability / high consequence events.”
 337

338 Draft EIR 3.22-19, lines 22-26 states as follows:
 339

340 “During a November 2, 2020, meeting between Valley Water and CAL FIRE, CAL FIRE did not
 341 express any concerns over the lack of access to water for firefighting during the time when Anderson
 342 Reservoir would be drawn down to deadpool or fully dewatered during Seismic Retrofit Years 2
 343 through 6 (Valley Water 2020). Therefore, the reduction in the water supply available for emergency
 344 services that would be present within Anderson Reservoir throughout construction activities would
 345 not result in a significant impact related to an increased risk of wildfire.”
 346

347 The actual communication between Valley Water and CalFire is shown below:
 348

From: Alexander Gordon <AGordon@valleywater.org>
Sent: Wednesday, December 9, 2020 1:21 PM
To: Hess, Jake <JAKE.Hess@fire.ca.gov>; Good, Dwight <Dwight.Good@fire.ca.gov>; Ciardella, Nick <Nick.Ciardella@fire.ca.gov>
Cc: Bassam Kassab <BKassab@valleywater.org>; Samina Shaikh <SShaikh@valleywater.org>; Luan Buckley <LBuckley@valleywater.org>; Carmen Gwartney <CGwartney@valleywater.org>
Subject: Valley Water and CALFIRE Follow Up - Anderson Reservoir drawdown capacity

Warning: this message is from an external user and should be treated with caution.
 Chief Hess and CALFIRE,

I’m reaching out to you today as a follow up to our meeting on November 2, 2020 when we discussed water availability at Anderson Reservoir over the next 10 years. The main outcome from the discussion is that CALFIRE did not have concerns about helicopter access in our reservoir after drawdown due to capability of pulling water out of Deadpool, access to cattle ponds in the surrounding area, and firefighting not usually constrained by a lack of access to water. Attached are meeting minutes from the November 2nd zoom meeting, titled “CalFire and Valley Water Fire Safety Operations Coordination Meeting.”

O4-21

349
 350 Here is an excerpt from the Draft EIR regarding the November 2, 2020, meeting:
 351

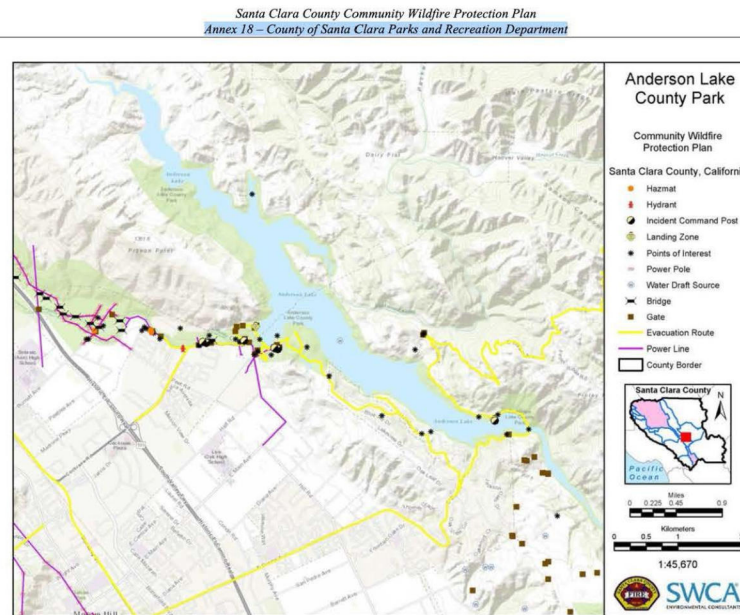
352 “...CAL FIRE did not express any concerns over the lack of access to water for firefighting during the
 353 time when Anderson Reservoir would be drawn down to deadpool or fully dewatered during Seismic
 354 Retrofit Years 2 through 6 (Valley Water 2020).”
 355

356 Here is the actual email from Valley Water to CalFire regarding the November 2, 2020 meeting:
 357

358 “...The main outcome from the discussion is that CALFIRE did not have any concerns about
 359 helicopter access in our reservoir after drawdown due to capability of pulling water out of Deadpool,
 360 access to cattle ponds in the surrounding area, and **firefighting not usually constrained by a lack of**
 361 **access to water.**”
 362

363 Comment: This is correct. Firefighting is not **usually** constrained by a lack of access to water. We
 364 in Holiday Lake Estates and Jackson Oaks and surrounding areas—the 3,467 people with 1,113
 365 homes—are NOT concerned about the **usual** fire. We **are** concerned about the conflagration that
 366 Dwight Good refers to that passes through Holiday Lake Estates and Jackson Oaks in 3 to 4 hours,

city of Morgan Hill. See the escape routes in yellow below.



O4-41
cont.

698

699

700

701

702 The final of three sections (situation, causation, mitigation) is on mitigation.

703

704

705

706

707

708

709

710

711

MITIGATION

	<p>CalFire-recommended FireWise program administered by the National Fire Protection Association, which programs include:</p> <ol style="list-style-type: none"> 1) Fuel reduction 2) Home hardening 3) Evacuation education and 4) Escape route hardening 5) Any other action to protects lives and property from wildfires 6) NPFA training in structural wildfire assessment for residents of the area <p>The corporation would have the following members: Holiday Lake Estates, Jackson Oaks, Morning Sun Terrace, surrounding areas on the west side of Lake Anderson and Finley Ridge representatives (Lake Anderson Ranchos Association) with equitably distributed voting rights (regarding spending income) and advisory members from at least: CalFire, the city of Morgan Hill, Valley Water and other affected government landowners in the region (SCC Parks) and California State Parks (Henry Coe)</p>	O4-56 cont.
Mitigation-3.5	<p>Electronics signs visible to drivers at the following locations:</p> <ol style="list-style-type: none"> 1) Dunne/Hill 2) Dunne/Thomas Grade (next to city-owned Jackson Booster station) 3) Dunne/Thomas Grade (opposite side of street) 4) Dunne/Holiday on Holiday Drive 5) Dunne/Jackson Oaks on Dunne towards Henry Coe <p>The electronic signs would fulfill the following requirements:</p> <ol style="list-style-type: none"> 1) Information to drivers in an actual evacuation 2) Educational information on wildfire risk reduction 3) Information on Valley Water's water conservation programs 4) Any message chosen by the City of Morgan Hill <p>Costs of electricity and maintenance to operate the electronic signs as a reimbursement to the city of Morgan Hill (which would own the signs) with a funding mechanism in place after the ADSRP is complete in perpetuity</p> <p>Message rights would be spelled out in an agreement between: 1) Valley Water, 2) the city of Morgan Hill and 3) the Lake Anderson Area Firesafe Council.</p> <p>These electronic signs would be passed by thousands of people per day and should be legible at the road speeds and distances from the vehicle occupants to the electronic signs.</p>	O4-57
Mitigation-3.6	<p>(IMPORTANT) Funding (from VW) of a road construction study for alternate evacuation routes from Holiday Lake Estates, Jackson Oaks and surrounding areas down to the city of Morgan Hill; such study shall include roads specified in</p>	p4-58

Responses to Comment Letter O4

Response to Comment O4-1

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment O4-2

See *Master Response 6 – EIR Baselines Adequacy* for a discussion of the baselines used in the Draft EIR and why these specific baselines were chosen and are appropriate.

Response to Comment O4-3

Cumulative wildfire exposure risk impacts are addressed in Section 3.22, *Wildfire*, starting on page 3.22-33 of the Final EIR. As discussed therein, the incremental Project contributions to impacts associated with the exacerbation of wildfire exposure risk (Cumulative Impact WF-1), the installation or maintenance of infrastructure that may exacerbate wildfire risk (Cumulative Impact WF-2), and the exposure of people or structures to significant risks (Cumulative Impact SF-3) would not be cumulatively considerable. As stated in the Final EIR, the Project's incremental contribution to cumulative impacts associated with the exposure of people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires (Cumulative Impact WF-4) would be cumulatively considerable; however with implementation of Mitigation Measures WF-1 (Reduce Emergency Response and Evacuation Interference during Construction and develop a Response and Evacuation Strategy⁵; page 3.22-32 of Section 3.22, *Wildfire*) and PS-1 (Prepare and Implement Traffic Management Plan; pages 3.17-20 and 3.17-21 of Section 3.17, *Public Services*), cumulative impacts would be mitigated to a less-than-significant level. As such, there is no conclusion of a cumulatively considerable wildfire exposure risk impact in the EIR.

Response to Comment O4-4

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. As discussed therein, the Draft EIR provides a discussion of two major wildfires and wildfire frequency in the Project vicinity that adequately represents previous wildfires in the Project Area for purposes of the Draft EIR wildfire exposure risk impact analysis. Section 3.22, *Wildfire*, also generally describes the conditions that facilitate the onset of wildfires. However, some information pertaining to recent wildfires provided by commenters, such as the August 2020 wildfire mentioned in this comment and other wildfire events that have required evacuation, have been added to the Final EIR as noted in Master Response 7.

Response to Comment O4-5

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. As discussed therein, CALFIRE's 2022 FHSZ maps were undergoing regulatory review and were not yet adopted at the

⁵ Note: Mitigation Measure WF-1 has been renamed from "Reduce Emergency Response and Evacuation Interference during Construction and develop an Emergency Action Plan" and modified in the Final EIR. Further discussion of this Mitigation Measure modification is included in *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*.

time of Draft EIR preparation. Because the 2022 FHSZ maps were not finalized and were not yet adopted by CALFIRE at the time of Draft EIR preparation, the 2007 FHSZ maps were used in the Draft EIR wildfire analysis. The 2007 FHSZ maps represented the most recently adopted, best available information at the time of Draft EIR preparation. Regardless of the FHSZ in which Project components are located, the impacts, mitigation measures, and significance conclusions as identified in the Draft EIR would not change.

Response to Comment O4-6

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*, and Response to Comment O4-5 for a discussion of CALFIRE maps.

Response to Comment O4-7

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*, and Response to Comment O4-5 for a discussion regarding the use of updated CALFIRE maps.

Response to Comment O4-8

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*, and Response to Comment O4-5 for a discussion regarding the use of updated CALFIRE maps.

Response to Comment O4-9

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks* for a discussion regarding the use of CALFIRE maps and adequacy of associated mitigation measures. The Project's potential to increase risk of a wildfire during the construction phase is discussed in Section 3.22, *Wildfire*, starting on page 3.22-23 of the Final EIR. As discussed therein, the Project would not exacerbate wildfire risks and impacts would be less than significant with mitigation. After Project construction is complete, the reservoir would be refilled and there would be no increased wildfire risk to recreational boat users and users of Anderson Reservoir. There would be less risk relative to existing conditions due to inundation of the lakebed.

Response to Comment O4-10

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks* and Response to Comment O4-4. As shown therein, some information pertaining to recent wildfires in the Project Area provided by commenters has been added to the Draft EIR.

Regarding the comment that the water level at the "Lake Anderson bridge" was sufficient to prevent/deter pigs from entering Holliday Lake Estates, see *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. The increase in feral pig numbers at Holiday Lake Estates has coincided with population increases throughout the region as feral pig populations continue to grow and expand, and there are multiple pathways (some of which do not involve pigs moving through the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Holiday Lake Estates. In addition, there is documentation from

other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Response to Comment O4-11

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. As shown therein, some information pertaining to recent wildfires in the Project Area provided by commenters has been added to the Draft EIR. Additionally, refer to *Emergency Access and Impairment of Evacuation Routes* in Master Response 7. As discussed therein, the concern regarding emergency capacity of East Dunne Avenue pertains to existing conditions, and the EIR need not identify mitigation measures to minimize existing environmental hazards.

Response to Comment O4-12

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks* and Response to Comment O4-4. As shown therein, some information pertaining to recent wildfires in the Project Area provided by commenters has been added to the Draft EIR. Additionally, as discussed on page 3.22-24 of Section 3.22, *Wildfire*, of the Final EIR, CALFIRE did not express any concerns over the lack of access to water for firefighting during the time when Anderson Reservoir would be drawn down to deadpool or fully dewatered. Within the vicinity of Anderson Reservoir, the Coyote, Chesbro, and Uvas reservoirs would remain available as alternative water sources for firefighting.

Response to Comment O4-13

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks* and Response to Comment O4-4. As shown therein, some information pertaining to recent wildfires in the Project Area provided by commenters has been added to the Draft EIR.

Response to Comment O4-14

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks* and Response to Comment O4-4. As shown therein, some information pertaining to recent wildfires in the Project Area provided by commenters has been added to the Draft EIR.

Response to Comment O4-15

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks* and Response to Comment O4-4. As shown therein, some information pertaining to recent wildfires in the Project Area provided by commenters has been added to the Draft EIR.

Response to Comment O4-16

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks* and Response to Comment O4-4. As shown therein, some information pertaining to recent wildfires in the Project Area provided by commenters has been added to the Draft EIR.

Response to Comment O4-17

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks* and Response to Comment O4-4. As shown therein, some information pertaining to recent wildfires in the Project Area provided by commenters has been added to the Draft EIR. These additions, along with the information included in Draft EIR Section 3.22.1, Environmental Setting, of Section 3.22, *Wildfire*, adequately represent previous wildfires in the Project Area, including as a basis for characterization of potential future wildfires and for the purposes of the EIR wildfire exposure risk impact analysis.

Response to Comment O4-18

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. As discussed therein (under *Emergency Access and Impairment of Evacuation Routes*), Valley Water is required to identify and mitigate significant effects caused by the Project, not those that occur under existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing emergency evacuation capacity and fuel loading along roadways.

Response to Comment O4-19

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. As discussed therein (under *Emergency Access and Impairment of Evacuation Routes*), Valley Water is required to identify and mitigate significant effects caused by the Project, not those that occur under existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing illegal activity that could result in wildfires. Implementation of BMP HM-12 (Incorporate Fire Prevention Measures) would minimize the potential for Project construction activities to ignite a wildfire, including but not limited to measures requiring spark arrestors on all equipment with internal combustion areas, removal or proper containment of combustible materials in construction areas, and the provision that fire extinguishers and other fire equipment be available within construction areas.

Response to Comment O4-20

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. As discussed therein (under *Emergency Access and Impairment of Evacuation Routes and Adequacy of Mitigation Measures for Evacuation Routes*), Valley Water is required to identify and mitigate significant effects caused by the Project, not those that occur under existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing emergency evacuation capacity.

Response to Comment O4-21

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. As discussed therein (under *Emergency Access and Impairment of Evacuation Routes*), Valley Water is required to identify and mitigate significant effects caused by the Project, not those that occur under existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing emergency evacuation capacity and the potential for a wildfire to travel through the Anderson Reservoir area. Additionally, as discussed

on page 3.22-24 of Section 3.22, *Wildfire*, of the Final EIR, CALFIRE did not express any concerns over the lack of access to water for firefighting during the time when Anderson Reservoir would be drawn down to deadpool or fully dewatered. Helicopters would have access to water from Anderson Reservoir under deadpool conditions for fire suppression and would not have to fly longer distances relative to existing baseline conditions. In addition, the Coyote, Chesbro, and Uvas reservoirs in the Project Area region would remain available as firefighting water sources.

Response to Comment O4-22

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. As discussed therein (under *Adequacy of Mitigation Measures for Wildfire Risk*), the EIR identifies mitigation measures to reduce the risk of wildfire ignition hazards associated with Project construction activities. Additionally, Valley Water is required to identify and mitigate significant effects caused by the Project, not those that occur under existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as future wildfire risk.

Response to Comment O4-23

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. As discussed therein (under *Emergency Access and Impairment of Evacuation Routes*), Valley Water is required to identify and mitigate significant effects caused by the Project, not those that occur under existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing emergency evacuation capacity and firefighting abilities. Additionally, as stated in the Final EIR (Section 3.22, *Wildfire*, on page 3.22-24), CALFIRE has not expressed concerns regarding a lack of access to water when Anderson Reservoir would be at deadpool or fully dewatered. The Coyote, Chesbro, and Uvas reservoirs in the Project Area region would remain available as firefighting water sources.

Response to Comment O4-24

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. As discussed therein (under *Emergency Access and Impairment of Evacuation Routes*), Valley Water is required to identify and mitigate significant effects caused by the Project, not those that occur under existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing wildfire hazards.

Response to Comment O4-25

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. As discussed therein (under *Emergency Access and Impairment of Evacuation Routes*), Valley Water is required to identify and mitigate significant effects caused by the Project, not those that occur under existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing wildfire risk and emergency evacuation capacity.

Response to Comment O4-26

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. As discussed therein (under *Emergency Access and Impairment of Evacuation Routes*), Valley Water is required to identify and mitigate significant effects caused by the Project, not those that occur under existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing evacuation capacity.

Response to Comment O4-27

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. As discussed therein (under *Emergency Access and Impairment of Evacuation Routes*), Valley Water is required to identify and mitigate significant effects caused by the Project, not those that occur under existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing emergency evacuation capacity and wildfire hazards.

Response to Comment O4-28

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under the subheadings *Increased Wildfire Exposure Risk from Project Construction*, *Adequacy of Mitigation Measures for Wildfire Risk*, and *Adequacy of Mitigation Measures for Evacuation Routes*. As discussed therein, implementation of BMP HM-12 (Incorporate Fire Prevention Measures) would minimize the potential for construction activities to ignite a wildfire (i.e., minimize the increases in “risk of ignition”), including but not limited to measures requiring spark arrestors on all equipment with internal combustion areas, removal or proper containment of combustible materials in construction areas, and the provision of fire extinguishers and other fire equipment within construction areas. The commenter identifies common and non-specific “mitigation measures” related to wildfire prevention and emergency management, which pertain to existing wildfire risks in general and are unrelated to the Project's specific impacts. As discussed in *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*, Valley Water is not responsible for mitigating existing conditions that do not result from the Project (e.g., fuel loads, fire suppression, evacuation routes).

Response to Comment O4-29

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. As discussed therein (under *Increased Wildfire Exposure Risk from Project Construction* and *Adequacy of Mitigation Measures for Wildfire Risk*), Valley Water is required to identify and mitigate significant effects caused by the Project, not those that occur under existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing illegal activity that results in wildfires.

Response to Comment O4-30

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Increased Wildfire Exposure Risk from Project Construction* and *Adequacy of Mitigation Measures for Wildfire Risk*. Implementation of BMP HM-12 (Incorporate Fire Prevention Measures) would minimize the potential for Project construction activities to

ignite a wildfire, including but not limited to measures requiring spark arrestors on all equipment with internal combustion areas, removal or proper containment of combustible materials in construction areas, and the provision that fire extinguishers and other fire equipment be available within construction areas.

Response to Comment O4-31

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Adequacy of Mitigation Measures for Evacuation Routes*. Potential mitigation suggested by commenters has been considered by Valley Water; however, as discussed therein, mitigation measures related to emergency evacuation and evacuation routes remain adequate, and no changes to the significance conclusions or mitigation measures are necessary.

Response to Comment O4-32

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. Responses to this comment regarding mitigation for Project traffic are provided under *Adequacy of Mitigation measures for Wildfire Risk*. Additionally, as discussed on pages 3.22-23 and 3.22-24 of the Final EIR, Project construction would involve implementation of Valley Water BMP HM-12 (Incorporate Fire Prevention Measures) and would comply with the requirements of the California Fire Code, to minimize the risk of accidental fire ignition. The Project would not block roadways used for access for fire suppression. Additionally, as stated in Section 3.22, *Wildfire*, on page 3.22-24 of the Final EIR, CALFIRE has not expressed concerns regarding a lack of access to water when Anderson Reservoir would be at deadpool or fully dewatered. The Coyote, Chesbro, and Uvas reservoirs in the Project Area region would remain available as firefighting water sources.

Response to Comment O4-33

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. Responses to this comment regarding mitigation for Project traffic are provided under *Adequacy of Mitigation Measures for Wildfire Risk*. Additionally, as discussed on pages 3.22-23 and 3.22-24 of the Final EIR, Project construction would involve implementation of Valley Water BMP HM-12 (Incorporate Fire Prevention Measures) and would comply with the requirements of the California Fire Code, to minimize the risk of accidental fire ignition. The Project would not block roadways used for access for fire suppression.

Response to Comment O4-34

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. Responses to this comment regarding the “box canyon” effect are provided under *Increased Wildfire Exposure Risk from Project Construction*.

Response to Comment O4-35

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. Responses regarding the “box canyon” effect and the existing condition of fluctuating water levels in Anderson Reservoir are provided under *Increased Wildfire Exposure Risk from Project Construction*.

Response to Comment O4-36

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment regarding the “box canyon” effect, fluctuating water levels in Anderson Reservoir, and wind speed are provided under *Increased Wildfire Exposure Risk from Project Construction*. Valley Water is not responsible for mitigating existing conditions that do not result from the Project. The existing baseline conditions for the Project include the lowering of Anderson Reservoir to deadpool and associated wind conditions.

Response to Comment O4-37

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment regarding the “box canyon” effect, fluctuating water levels in Anderson Reservoir, and wind speed are provided under “Increased Wildfire Exposure Risk from Project Construction.” Valley Water is not responsible for mitigating existing conditions that do not result from the Project. The existing baseline conditions for the Project include the lowering of Anderson Reservoir to deadpool and associated wind conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing wildfire risk due to winds.

Response to Comment O4-38

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Increased Wildfire Exposure Risk from Project Construction*. Valley Water is not responsible for mitigating existing conditions that do not result from the Project. The existing baseline conditions for the Project include the lowering of Anderson Reservoir to deadpool and associated wind conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing wildfire risk due to winds.

Response to Comment O4-39

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Increased Wildfire Exposure Risk from Project Construction*. Valley Water is not responsible for mitigating existing conditions that do not result from the Project. The existing baseline conditions for the Project include the lowering of Anderson Reservoir to deadpool and associated wind conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing wildfire risk due to winds.

Response to Comment O4-40

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment regarding the closure of the Woodchoppers Flat Picnic Area are provided under *Emergency Access and Impairment of Evacuation Routes*.

See *Master Response 5 – Impacts of FOC and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. Valley Water acknowledges that feral pigs have damaged the turf in the lower meadow area; however, the damage does not preclude the use of the lower meadow as a temporary wildfire refuge area.

Response to Comment O4-41

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. Responses to this comment regarding emergency evacuation access through Anderson Lake County Park are provided under *Adequacy of Mitigation Measures for Evacuation Routes*. As discussed therein, Project construction would not substantially prevent the use of existing evacuation routes in Anderson Lake County Park or prevent use of existing routes for the purpose of emergency response access.

Response to Comment O4-42

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment O4-43

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Increased Wildfire Exposure Risk from Project Construction* and *Adequacy of Mitigation Measures for Wildfire Risk*. Valley Water is not responsible for mitigating existing conditions that do not result from the Project. The existing baseline conditions include the lowering of Anderson Reservoir to deadpool and associated wind conditions.

Response to Comment O4-44

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Increased Wildfire Exposure Risk from Project Construction*. Valley Water is not responsible for mitigating existing conditions that do not result from the Project. The existing baseline conditions include the lowering of Anderson Reservoir to deadpool and associated wind conditions.

Response to Comment O4-45

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Adequacy of Mitigation Measures for Wildfire Risk*. Potential mitigation suggested by commenters has been considered by Valley Water; however, as discussed therein, mitigation measures related to wildfire risk remain adequate, and no changes to the significance conclusions or mitigation measures are necessary. Repairing the lower meadow area, such as by installing a fence and re-seeding the grass as suggested by the commenter, is unnecessary given the damage does not preclude the use of the lower meadow as a temporary wildfire refuge area.

Response to Comment O4-46

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Increased Wildfire Exposure Risk from Project Construction*. Wildfire impacts associated with the Project are limited to the construction phase. Preservation and maintenance operations are not feasible or appropriate wildfire mitigation activities that would apply to the Project.

Response to Comment O4-47

Based on the types of potential impacts associated with wildfire, the type of mitigation identified by CEQA Guidelines Section 15370(e) is not applicable to the Project. As wildfire hazard is an existing environmental condition, it is not a resource that requires compensation, permanent protection, or a conservation easement. See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses related to this comment are provided under *Increased Wildfire Exposure Risk from Project Construction*, *Adequacy of Mitigation Measures for Wildfire Risk*, and *Adequacy of Mitigation Measures for Evacuation Routes*.

The commenter recommends a mitigation measure whereby Valley Water suspends ignition generating activities in certain conditions. The Project includes BMP HM-12, which specifies that during the high fire danger period (April 1 – December 1), work crews will have appropriate fire suppression equipment available at the work site, along with other measures including requirements for spark arrestors, extinguishers, and smoking prohibition. Given existing construction work window restrictions, further potential work stoppages would increase the risk Project schedule delays.

Response to Comment O4-48

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Adequacy of Mitigation Measures for Wildfire Risk* and *Adequacy of Mitigation Measures for Evacuation Routes*. Additionally, as discussed in Master Response 7, Valley Water is required to identify and mitigate significant effects caused by the Project, not existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as ignition risk from existing utilities.

Funding a study on electrical distribution line undergrounding would not directly address or mitigate an impact of the Project and, therefore, is not appropriate under CEQA. Additionally, funding a study rather than implementing a concrete mitigation measure constitutes deferred mitigation, which is generally not permissible under CEQA. Deferred mitigation, where the specifics of how impacts will be mitigated are left to be determined later, does not provide the necessary assurance that impacts would be adequately addressed. Therefore, funding such a study is not proposed.

Response to Comment O4-49

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Adequacy of Mitigation Measures for Wildfire Risk* and *Adequacy of Mitigation Measures for Evacuation Routes*. Additionally, as discussed in Master Response 7, Valley Water is required to identify and mitigate significant effects caused by the Project, not existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as wildfire fuels.

Providing fuel breaks in specified areas such as in the Rosendin Park Area does not directly address or mitigate an impact of the Project and, therefore, is not appropriate under CEQA. CEQA requires that mitigation measures be directly tied to the project's impacts, ensuring that they are proportional and relevant to the specific issues identified. As such, fuel breaks are not proposed as mitigation.

Response to Comment O4-50

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Adequacy of Mitigation Measures for Wildfire Risk* and *Adequacy of Mitigation Measures for Evacuation Routes*. Additionally, as discussed in Master Response 7, Valley Water is required to identify and mitigate significant effects caused by the Project, not existing environmental conditions. The EIR need not identify mitigation measures to minimize existing environmental hazards, such as causes of wildfire ignition.

Implementing N5 sensors for early detection of wildfire ignitions at various locations, while potentially beneficial for broader wildfire response, does not directly address or mitigate a specific impact of the Project and, therefore, is not appropriate under CEQA. Mitigation measures under CEQA must be directly tied to addressing significant impacts identified as a result of the Project. Since the N5 sensors are a general fire prevention strategy and not directly related to a Project-specific impact, their implementation is not proposed as mitigation.

Response to Comment O4-51

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Adequacy of Mitigation Measures for Wildfire Risk* and *Adequacy of Mitigation Measures for Evacuation Routes*. As discussed in Master Response 7, Valley Water is required to identify and mitigate significant effects caused by the Project, not existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing wildfire risks. Additionally, as stated in Section 3.22, *Wildfire*, on page 3.22-24 of the Final EIR, CALFIRE did not express concerns over the lack of access to water when Anderson Reservoir would be at deadpool or fully dewatered.

Use of the Anderson Force Main or related infrastructure to pump water to new or existing storage facilities for wildfire response does not directly address or mitigate a specific impact of the proposed Project, as the Project does not decrease the availability of water for fire suppression purposes. The proposed investigation involves complex infrastructure changes and legislative actions that are not directly tied to the impacts caused by the Project. Therefore, this investigation and associated infrastructure modifications are not proposed as mitigation.

Response to Comment O4-52

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Adequacy of Mitigation Measures for Wildfire Risk* and *Adequacy of Mitigation Measures for Evacuation Routes*. As discussed in Master Response 7, Valley Water is required to identify and mitigate significant effects caused by the Project, not existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing wildfire risks. Additionally, as stated in Section 3.22, *Wildfire*, on page 3.22-24 of the Final EIR, CALFIRE did not express concerns over the lack of access to water when Anderson Reservoir would be at deadpool or fully dewatered.

Reimbursing the City of Morgan Hill for the excess electricity costs associated with pumping water into storage tanks in Holiday Lake Estates and other areas during high-risk weather situations does not directly address or mitigate a specific impact of the Project. The Project does not affect water availability for fire suppression during construction or operations. CEQA requires that mitigation measures be directly related to addressing significant impacts identified

as a result of the Project. The proposed reimbursement is a financial arrangement that does not directly mitigate a Project-related impact, and therefore, this reimbursement is not proposed.

Response to Comment O4-53

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Adequacy of Mitigation Measures for Wildfire Risk* and *Adequacy of Mitigation Measures for Evacuation Routes*. Additionally, as discussed in Master Response 7, Valley Water is required to identify and mitigate significant effects caused by the Project, not existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing wildfire risk. Valley Water is not responsible for implementation of emergency warning systems; this would be in the purview of other emergency and public service providers.

While installing ground-based long-range acoustic devices to warn and wake residents and outdoor recreation users in the event of a wildfire may provide general public safety benefits, they would not directly address or mitigate a specific impact of the Project. CEQA requires that mitigation measures be directly related to addressing significant impacts identified as a result of the Project. As such, the installation of these devices is not proposed as a CEQA mitigation measure.

Response to Comment O4-54

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Adequacy of Mitigation Measures for Wildfire Risk* and *Adequacy of Mitigation Measures for Evacuation Routes*. Additionally, as discussed in Master Response 7, Valley Water is required to identify and mitigate significant effects caused by the Project, not existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as emergency evacuation and shelter in place facilities.

Fire-hardening the Jackson Oaks Clubhouse for use during a wildfire, while potentially beneficial, does not directly address or mitigate a specific impact of the Project, as the Project does not impact existing wildfire refuge areas. The Project includes Mitigation Measure WF-1 (Reduce Emergency Response and Evacuation Interference during Construction and Develop a Response and Evacuation Strategy) which ensures that emergency response and evacuation routes are maintained throughout the Project. Additionally, the Project includes Mitigation Measure PS-1 (Prepare and Implement Traffic Management Plan) to minimize traffic delays and safety hazards during construction. These measures adequately address potential emergency response and evacuation concerns, making additional fire-hardening of the Jackson Oaks Clubhouse unnecessary as a CEQA mitigation measure.

Response to Comment O4-55

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Adequacy of Mitigation Measures for Wildfire Risk* and *Adequacy of Mitigation Measures for Evacuation Routes*. Additionally, as discussed in Master Response 7, Valley Water is required to identify and mitigate significant effects caused by the Project, not existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing cellular infrastructure.

Installing or facilitating the installation of new cellular infrastructure in the event of an evacuation, while potentially beneficial for overall communication during emergencies, is not appropriate as a mitigation measure for several reasons. First, the measure does not address a direct impact of the Project, as CEQA mitigation measures are required to do. Second, the responsibility for ensuring adequate cellular coverage typically falls under the purview of telecommunications providers and relevant regulatory agencies, not the Project proponent (Valley Water). Finally, the installation of new cellular infrastructure involves complex permitting, regulatory approvals, and coordination with telecommunications companies, which extends beyond the scope and authority of the Project. Therefore, this action is not proposed as a mitigation measure.

Response to Comment 04-56

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Adequacy of Mitigation Measures for Wildfire Risk* and *Adequacy of Mitigation Measures for Evacuation Routes*. Additionally, as discussed in Master Response 7, Valley Water is required to identify and mitigate significant effects caused by the Project, not existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing wildfire risk.

While the proposed creation of a "Lake Anderson Area FireSafe Council" (LAAFCO) to enhance wildfire awareness, training, and risk mitigation could be beneficial, it is not appropriate as a mitigation measure for a few reasons. First, the establishment and funding of a 501(c)(3) organization like LAAFCO, and the administration of its programs, extend beyond the scope and authority of Valley Water. CEQA mitigation measures are intended to directly address significant environmental impacts caused by a project, not to fund or create external organizations that do not result in specific and enforceable actions. Second, wildfire prevention, education, and community preparedness are typically the responsibility of local government agencies, fire departments, and existing FireSafe Councils. Establishing a new entity could create overlap and potential conflicts with existing programs and organizations that are already equipped to handle these issues. Given these considerations, the establishment and funding of LAAFCO is not proposed as a mitigation measure. However, as discussed in *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*, Valley Water is committed to working with the community to bring together local public safety partners and community leaders to discuss access and evacuation concerns for the neighborhoods near the Project Area. On November 21, 2024, Valley Water met with the County of Santa Clara, City of Morgan Hill, CALFIRE, and community leaders from the Holiday Lake Estates neighborhood to discuss access and evacuation concerns for neighborhoods near the Project Area. Together, the group discussed ideas to address these concerns, and planned for future meetings for parties within the group. The group will continue to meet periodically prior to and throughout Project construction, and the next meeting will be held in the spring of 2025.

The commenter also suggests that erosion and landslides post-wildfire could contaminate Anderson Reservoir, but the link between this concern and the specific impacts of the Seismic Retrofit component is indirect. CEQA requires that mitigation measures be directly tied to project-related impacts. Existing and potential future landslides are addressed in Section 3.8, *Geology and Soils*; water quality issues related to Seismic Retrofit construction are addressed in Section 3.14, *Water Quality*; and post-fire landslides are addressed specifically under Impact WF-3 in Section 3.22.4, *Impact Analysis*, of Section 3.22, *Wildfire*.

Response to Comment O4-57

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Adequacy of Mitigation Measures for Wildfire Risk* and *Adequacy of Mitigation Measures for Evacuation Routes*. Additionally, as discussed in Master Response 7, Valley Water is required to identify and mitigate significant effects caused by the Project, not existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing emergency evacuation routes and communication equipment.

The proposed installation of electronic signs, while intended to improve evacuation response, is not appropriate as a mitigation measure. The Project includes Mitigation Measures WF-1 (Reduce Emergency Response and Evacuation Interference during Construction and Develop a Response and Evacuation Strategy), which ensures that evacuation routes are maintained and that emergency communication is handled effectively in coordination with local agencies. The responsibility for electronic signage typically falls to local government, not a water district. Therefore, installation of electronic signs is not proposed as mitigation.

Response to Comment O4-58

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Adequacy of Mitigation Measures for Wildfire Risk* and *Adequacy of Mitigation Measures for Evacuation Routes*. Additionally, as discussed in Master Response 7, Valley Water is required to identify and mitigate significant effects caused by the Project, not existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing evacuation routes and capacity.

Funding a road construction study for alternate evacuation routes is not appropriate as a mitigation measure. The Project includes Mitigation Measure WF-1 (Reduce Emergency Response and Evacuation Interference during Construction and Develop a Response and Evacuation Strategy), which ensures coordination with emergency services to maintain effective evacuation routes during construction. Additionally, funding a study rather than implementing a concrete mitigation measure constitutes deferred mitigation, which is generally not permissible under CEQA. The proposed study and new road construction, if included, are long-term infrastructure projects that are typically managed by local governments and regional planning agencies, rather than a water district such as Valley Water. The existing wildfire mitigation efforts focus on maintaining current evacuation routes rather than creating new roads, which is beyond the Project's objectives and responsibility.

Response to Comment O4-59

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Adequacy of Mitigation Measures for Wildfire Risk* and *Adequacy of Mitigation Measures for Evacuation Routes*. Additionally, as discussed in Master Response 7, Valley Water is required to identify and mitigate significant effects caused by the Project, not existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing wildfire risk and communication equipment.

The installation of AM/FM radio stations for one-way broadcasts during an evacuation is not appropriate as a CEQA mitigation measure. The Project includes Mitigation Measure WF-1,

which ensures effective coordination with emergency services and communication during evacuations. The installation of radio stations falls under the purview of local government, emergency management agencies, and others, not Valley Water. Additionally, the need for multiple stations due to topography would involve complex planning and infrastructure beyond the scope of the Project's objectives, while not directly mitigating a Project-related impact. Therefore, this action is not proposed as a mitigation measure.

Response to Comment O4-60

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Adequacy of Mitigation Measures for Wildfire Risk* and *Adequacy of Mitigation Measures for Evacuation Routes*. Additionally, as discussed in Master Response 7, Valley Water is required to identify and mitigate significant effects caused by the Project, not existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing wildfire risk and emergency evacuation refuges.

The commenter's proposal to create a multi-purpose fire-hardened structure at the Old Boat Marina in Holiday Lake Estates is not appropriate as a mitigation measure. CEQA mitigation measures must directly address significant environmental impacts caused by the Project. The construction of a new facility with multiple purposes, including recreation and private use, goes beyond the scope of mitigating specific Project-related impacts, as the Project does not impact wildfire refuge areas. Additionally, the proposed structure involves complex planning, funding, and long-term commitments that fall outside Valley Water's responsibilities. Public safety and recreational facilities are typically planned and managed by local government agencies in coordination with community stakeholders, rather than as a direct result of CEQA mitigation. Furthermore, the suggestion to use the structure for private recreation would require additional legal and financial considerations that are unrelated to the Project's impacts. Given these factors, the creation of this multi-purpose structure is not proposed as a mitigation measure.

Response to Comment O4-61

See *Master Response 7 – Impacts of FOC and ADSRP on Wildfire Risks*. Responses to this comment are provided under *Adequacy of Mitigation Measures for Wildfire Risk* and *Adequacy of Mitigation Measures for Evacuation Routes*. Additionally, as discussed in Master Response 7, Valley Water is required to identify and mitigate significant effects caused by the Project, not existing environmental conditions. An EIR need not identify mitigation measures to minimize existing environmental hazards, such as existing wildfire risk and wildfire fuels.

Funding a study to analyze various combustible vegetation management choices is not appropriate as a mitigation measure. CEQA requires mitigation measures to directly address significant environmental impacts caused by the Project. A study of this nature, which is intended to inform future ordinances, constitutes deferred mitigation, which is generally not permissible under CEQA. Additionally, the development of local fire protection ordinances is typically the responsibility of local government and should be driven by the City of Morgan Hill in collaboration with relevant stakeholders, rather than being a requirement of the Project under Valley Water's direction. Therefore, this study is not proposed as a mitigation measure.

Holiday Estates Maintenance Association, Inc.

Common Interest Management Services
262 East Hamilton Avenue, Suite D
Campbell, CA 95008
(408) 370-9902
(408) 371-5313

THEREFORE:

As shown by the Edward Ang video, the draining of Lake Anderson in an of itself, in August 2013 (with its water level at 44,000 and 45,000 acre feet), wild pigs did NOT cross the blue water retraction line and in September 9, 2023, with its water level at 3,135 and 3,145 acre feet) wild pigs (sounders of many pigs as shown in the video) are REGULARLY, ROUTINELY AND REPEATEDLY CROSSING THE BLUE LINE.

O5-17

THEREFORE:

The Draft EIR states as follows:

"There is no clear evidence that the drawdown of Anderson Reservoir as mandated by DSOD and FERC has resulted in changes to feral pig movement and distribution around Anderson Reservoir."

- 1) The mandates (by DSOD and FERC) are irrelevant and Valley Water would have to have drained Lake Anderson anyway as planned and stated in the August 2013 Notice of Preparation.
- 2) There is now outright verifiable proof that the draining of Lake Anderson both 1) caused an invasion of Holiday Lake Estates (and quite likely surrounding areas) and 2) is facilitating the ongoing invasion by providing a refuge area with a stable water source. The wild pigs emerge from the Lake Anderson lakebed "pigsty" day and night to traverse Holiday Lake Estates and surrounding areas.

O5-18

COMMENT: Clearly, the study area is WRONG as specified in Draft EIR-3.5, which states that the Study Area is depicted in Figure 3.5.1 (Draft EIR-3.5-1):

O5-19

Holiday Estates Maintenance Association, Inc.

Common Interest Management Services
262 East Hamilton Avenue, Suite D
Campbell, CA 95008
(408) 370-9902
(408) 371-5313



Alie Saad • Holiday Lake

In the neighborhood



O5-23
cont.

QUESTION: Why do Holiday Lake Estates residents believe that the wild pigs came across the dry lakebed and NOT through Rosendin Park (an orange line) and NOT through the Lake Anderson bridge area?

ANSWER: These two photos tell the story. If this is the first sounder seen (and it was), this—the old boat marina—is an **EXTREMELY** weird place to find it. It would be like finding a sounder of 25 wild pigs in the Valley Water Board Room. You would just have to ask yourself: “How did you get here?”

These photos from Alie Saad and Diana Guido were obtained and preserved as soon as Valley Water taking the position that the draining of Lake Anderson was NOT responsible for the wild pigs in Holiday Lake Estates, a fact Valley Water disputes, but, for the reason [the two photos] given here, the residents of Holiday Lake Estates know to be true.

CEQA Guidelines 15384(b) state: “[b] Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.”

The sounder of 25+ pigs at the old boat marina came from one of three places:

- 1) crossing the blue line (in the lake) or
- 2) crossing the north orange line (Rosendin Park) or

HEMA Board CEQA Wild Pig EIR Draft Comment of Substantial Evidence of A Significant Environmental Impact from Wild Pigs and the Draining of Lake Anderson

15

Holiday Estates Maintenance Association, Inc.

Common Interest Management Services
262 East Hamilton Avenue, Suite D
Campbell, CA 95008
(408) 370-9902
(408) 371-5313

In some streams, feces from wild pigs have increased fecal coliform concentrations to levels exceeding human health standards.

O5-38
cont.

Based on this evidence and the now proven numbers of wild pigs in lakebed and drinking from and defecating and near Coyote Creek, analysis should be done of their impact on the humans that will work in the Anderson lakebed and the fish, such as O. Mykiss, that will live in the pig defecation [fecal coliform] infected water originating upstream of the dam that flows downstream of the dam (where O. Mykiss lives). Analysis should also be done regarding the wild pig invasions in Holiday Lake Estates and nearby neighborhoods, including Jackson Oaks and Morning Sun Terrace and their health impact on human beings.

3. Expert Evidence on impact of Wild Pigs, University of California, Agriculture and Natural Resources:

https://ipm.ucanr.edu/legacy_assets/pdf/pestnotes/pnwildpigs.pdf

Wild pigs carry five major waterborne pathogens that can be infectious to humans. These five pathogens are: *E. coli*, *Campylobacter*, *Salmonella*, *Cryptosporidium*, and *Giardia*. For example, after the *E. coli* outbreak in spinach from California fields in 2006, *E. coli* was isolated from both cattle and wild pigs. Although the exact source could not be verified, wild pigs were considered the prime suspect. In another study in Texas, six of seven wild pigs tested positive for *E. coli*. Additionally, wild pigs increase turbidity in water sources by stirring up sediment. Turbidity, or the relative cloudiness of water, is a critical factor affecting the survival of waterborne pathogens. As turbidity increases, the survival rate of waterborne pathogens, including *E. coli*, also increases. Further, high levels of turbidity can protect waterborne pathogens during the chemical disinfection process used in water treatment facilities.

Wild pigs pose a significant potential disease threat to humans, domestic

livestock, and native wildlife and are hosts to at least 37 parasites that can affect multiple species. Wild pigs can carry potentially devastating diseases to domestic livestock and wildlife including pseudorabies, foot and mouth disease, swine brucellosis, bovine tuberculosis, and classical swine fever. Given the diverse hazards posed by wild pigs, combined with the extreme negative economic impact they often impose, an effective management program is warranted.

O5-39

COMMENT: This expert evidence from the University of California states it directly: "Wild pigs pose a significant potential disease threat to humans, domestic livestock, and native wildlife and are hosts to 37 parasites that can affect multiple species."

O5-40

HEMA Board CEQA Wild Pig EIR Draft Comment of Substantial Evidence of A Significant Environmental Impact from Wild Pigs and the Draining of Lake Anderson

27

Holiday Estates Maintenance Association, Inc.

Common Interest Management Services
262 East Hamilton Avenue, Suite D
Campbell, CA 95008
(408) 370-9902
(408) 371-5313

Lake Anderson Area Lot and Population Statistics; Wildfire Evacuation Scope and Risk

Anderson West = Lot statistics for all lots access by East Dunne Avenue that are

- 1) east of the lower intersection of East Dunne Avenue and Thomas Grade/Gallop Drive and
- 2) before the bridge crossing Lake Anderson on East Dunne Avenue.

"Built Lots" in all tables below are lots built with residential homes.

Lots and Homes INSIDE Four (4) Homeowners Associations as of 02/26/2022 in Anderson West

Corp ID	Corporation Name	Incorporation Date	Built Lots	Vacant Lots	Total Lots
C0458492	Holiday Estates Maintenance Association "Holiday Lake Estates"	10/02/1963	493	22 (*A)	515
C0568939	Jackson Oaks Association	05/02/1969	499	4 (*B)	503
C0717550	Morning Sun Terrace Homeowners Association	06/14/1977	49	0	49
C0963759	Jackson Hills Homeowners Association	10/11/1979	6	0	6
	TOTALS		1047	26	1073

(*A): Holiday Lake Estates:

has two common area lots (lower meadow and upper meadow) NOT included as built and NOT vacant
has one lot (counted as vacant) owned by the city of Morgan Hill with water storage tanks (700,000 gallons)
two lots (counted as vacant) owned by government agencies (SCC Parks and Valley Water)

(*B): Jackson Oaks Association has a common area lot (clubhouse and swimming pool) NOT included as a
residential (built) lot and NOT a vacant lot. It is not vacant and not residential.

Lots and Homes OUTSIDE Any Homeowners Association by Street as of 02/26/2022

Street Name	Built Lots	Vacant Lots	Total Lots
Holiday Dr	1 (*C)	0	1
Jackson Oaks Dr	2 (*D)	0	2
Hilltop Ct	6	0	6
Oak Leaf Dr	48 (*E)	1	49
Valley View Ct	7	0	7
Kruse Ranch Ln	2	0	2
TOTALS	66	1	67

(*C): 17000 Holiday Dr is NOT in Holiday Lake Estates; the driveway is on East Dunne Ave.

(*D): Two addresses (16780, 16800) are built lots NOT in Jackson Oaks Association.
Additionally, there is one retail parcel at 16820 Jackson Oaks Dr.

(*E): Oak Leaf Dr has lots in both Jackson Oaks and lots in no HOA (17000 and above).
Additionally, one lot (classified as vacant) is under construction (17390 Oak Leaf Dr).

Status Re HOA	Built Lots	Vacant Lots	Total Lots
Inside an HOA	1047	26	1073
Outside an HOA	66	1	67
TOTAL LOTS	1113	27	1140
Percent Inside HOAs	94.07%	96.3%	94.12%
Percent Outside HOAs	5.93%	3.7%	5.88%

O5-42 cont.

HEMA Board CEQA Wild Pig EIR Draft Comment of Substantial Evidence of A Significant
Environmental Impact from Wild Pigs and the Draining of Lake Anderson

31

Responses to Comment Letter O5

Response to Comment O5-1

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment O5-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend.

The increase in feral pig numbers at Holiday Lake Estates has coincided with population increases throughout the region as feral pig populations continue to grow and expand, and there are multiple pathways (some of which do not involve pigs moving through the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Holiday Lake Estates. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Response to Comment O5-3

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment O5-4

This comment is a speculative interpretation of the FERC Order. It does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment O5-5

See *Master Response 6 – Adequacy of EIR Baselines* for a discussion of the environmental baselines utilized in the Draft EIR and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of the baseline utilized with respect to Project impacts related to feral pigs. Valley Water disagrees with the statement that the FERC Order is irrelevant to the CEQA analysis for the Project. On the contrary, the FERC Order requires implementation of a number of measures (collectively comprising the FOCP) which influence baseline conditions for the Project.

Other sections of the Draft EIR did account for the FOCP as influencing CEQA analysis. Section 3.0.2, *Environmental Baselines*, describes environmental baselines used for assessment of impacts under CEQA, and Final EIR pages 3-2 and 3-3 specifically discuss the existing conditions baseline for evaluating construction phase impacts of the Project. As stated therein, the construction baseline for all resource topics (not just feral pigs or terrestrial biology) is

represented by the conditions that would be present following FOCP completion, rather than conditions present at an earlier date, because the FOCP changed conditions.

Response to Comment O5-6

See *Master Response 6 – Adequacy of EIR Baselines* for a discussion of the environmental baselines utilized in the Draft EIR. As described therein, the environmental baselines utilized in the Draft EIR are appropriate, and no changes to the Draft EIR are required. The Project would not have a cumulatively significant impact on feral pig presence when combined with the FOCP because as explained in *Master Response 5 - Impacts of FOCP and ADSRP on Feral Pig Presence*, the influx of feral pigs into Holiday Lake Estates and the number of pigs occurring in the neighborhood did not necessarily result from the FERC-ordered drawdown of Anderson Reservoir. Therefore, the Project would not have a cumulatively considerable impact related to feral pig presence.

Response to Comment O5-7

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and movement. Valley Water acknowledges that the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, though the “water retraction zones” identified by the commenter are not necessarily wild pig “expressways” or “shelter areas.” There is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. The increased presence of feral pigs in the vicinity of Anderson Dam coincided with population increases throughout the region as feral pig populations continue to grow and expand. The number of pigs occurring in vicinity of Anderson Dam did not necessarily result from the FERC-ordered drawdown of Anderson Reservoir. Furthermore, this comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment O5-8

Valley Water acknowledges that any pigs within Holiday Lake Estates had to have entered from adjacent areas on one side of Holiday Lake Estates or another. The remainder of the comment recites the CEQA Guidelines definition of substantial evidence, and does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No response to this recitation is required here or in response to other recitations of the CEQA Guidelines provisions appearing in other comments.

Response to Comment O5-9

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend.

The increase in feral pig numbers at Holiday Lake Estates has coincided with population increases throughout the region as feral pig populations continue to grow and expand, and

there are multiple pathways (some of which do not involve pigs moving through the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Holiday Lake Estates. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

The evidence provided does not verify that there are no gaps in or under fencing along the entire southwest border of the neighborhood through which pigs could enter or exit. Further, Comment F20-4 (from a Holiday Lake Estates resident) refers to pigs digging under a fence to enter residents' properties.

Response to Comment O5-10

This comment introduces the discussion that follows rather than addressing technical details of the Draft EIR, and no further response is necessary.

Response to Comment O5-11

Valley Water has viewed the provided video that shows feral pigs in the bed of Anderson Reservoir. Valley Water acknowledges that feral pigs forage in the reservoir bed.

Response to Comment O5-12

. See Master Response 5 – *Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations, including the baseline utilized to assess impacts related to feral pigs. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend.

The increase in feral pig numbers at Holiday Lake Estates has coincided with population increases throughout the region as feral pig populations continue to grow and expand, and there are multiple pathways (some of which do not involve pigs moving through the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Holiday Lake Estates. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Response to Comment O5-13

Valley Water acknowledges that feral pigs can access the Anderson Reservoir lakebed in the area referred to in this comment.

Response to Comment O5-14

See Master Response 5 – *Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the

reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend.

The increase in feral pig numbers at Holiday Lake Estates has coincided with population increases throughout the region as feral pig populations continue to grow and expand, and there are multiple pathways (some of which do not involve pigs moving through the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Holiday Lake Estates. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Response to Comment O5-15

Valley Water does not agree that the evidence provided demonstrates that feral pigs could not have been swimming in or across Anderson Reservoir in 2013, or that boaters would necessarily have seen any such pigs. Feral pigs are often active at dawn or dusk when they would be able to see across Anderson Reservoir, and thus might attempt swimming across. In 2013, Anderson Reservoir was not open to boaters before 8:00 a.m., and pigs could have swum in the reservoir prior to that time without being seen by boaters.

It should also be noted that feral pig populations in the region (and thus in the project vicinity), were lower in 2013 than they were when the FERC Order went into effect, and that pig populations will likely continue to increase. The California population of feral pigs is growing rapidly, with an average growth rate of 20 percent per year, so many more feral pigs are present in the region than were present in 2013, for reasons unrelated to either the FOCPP or the Project.

Response to Comment O5-16

See *Master Response 6 – Adequacy of EIR Baselines* for a discussion of the environmental baselines utilized in the Draft EIR and *Master Response 5 – Impacts of FOCPP and ADSRP on Feral Pig Presence* for a discussion of the baseline utilized with respect to Project impacts related to feral pigs. As described therein, the environmental baselines utilized in the Draft EIR are appropriate, and no changes to the Draft EIR are required. See Response to Comment O5-6 as to why the Project would not have a cumulatively considerable impact related to feral pig presence.

Response to Comment O5-17

See Response to Comment O5-15 and *Master Response 5 – Impacts of FOCPP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. The evidence provided does not confirm that feral pigs could not cross the “blue water retraction line” prior to the FOCPP and does not address the recent regional and Statewide increase in feral pig populations that is responsible for the large number of pigs currently in the Project Area.

Response to Comment O5-18

See Response to Comment O5-5 and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. Valley Water disagrees with the statement that the FERC Order is irrelevant to the CEQA analysis for the Project. This comment letter does not provide “outright verifiable proof” that the drawdown of Anderson Reservoir caused the influx of feral pigs into Holiday Lake Estates. Further, Valley Water disagrees with the suggestion that the reservoir drawdown facilitates this influx by providing “a stable water source” given that the reservoir provided ample shallow water for drinking and wallowing even prior to the drawdown.

Response to Comment O5-19

The study area for terrestrial biological resources in the Draft EIR includes areas where such resources may be affected both directly and indirectly by the Project, as described in Draft EIR Section 3.5, *Biological Resources*, pages 3.5-1 and 3.5-2. The comment suggests the study area for feral pigs should extend upstream of Anderson Dam to Coyote Reservoir, but does not explain why extending the study area would provide a more accurate analysis for impacts related to feral pigs. See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed in Chapter 2, *Project Description*, page 2-17 of the Final EIR, Valley Water would continue normal operations of Coyote Reservoir with the intent of maintaining flow in the reach of Coyote Creek between Coyote Dam and the upper end of Anderson Reservoir. It is possible that the draining of Anderson Reservoir and maintenance of flow in the reach of the creek between the two reservoirs could encourage some feral pigs to move away from Anderson Reservoir (and thus Holiday Lake Estates) during Seismic Retrofit construction, but the EIR properly concludes (page 3.5-85) that the Seismic Retrofit would not result in a substantial increase in feral pig activity in or near the Project area.

Response to Comment O5-20

This comment concurs with a statement made in the Draft EIR. No further response is required.

Response to Comment O5-21

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. Additionally, this comment does not indicate that pigs did not or could not enter Holiday Lake Estates from the north or south, especially given the abundance of feral pigs on Santa Clara County Parks’ Coyote Canyon property, located within 0.6 mile south of the Holiday Lakes Estates neighborhood. This comment letter mentions that feral pigs have been observed in Jackson Oaks as well. With pigs occurring in Jackson Oaks, it is certainly possible that pigs from more natural lands south of Jackson Oaks have dispersed into that neighborhood and then the short distance north to Holiday Lake Estates.

Response to Comment O5-22

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. The timing of the first observations of feral pigs in Holiday Lake Estates could reflect immigration of pigs either from the east side of Anderson Reservoir or from the already-large population on Santa Clara County Parks' Coyote Canyon property just 0.6 mile south of Holiday Lake Estates, or even from the north.

Response to Comment O5-23

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. The increase in feral pig numbers at Holiday Lake Estates has coincided with population increases throughout the region as feral pig populations continue to grow and expand, and there are multiple pathways (some of which do not involve pigs moving through the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Holiday Lake Estates. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir. As discussed in Master Response 5, feral pigs have been present on the west side of Coyote Creek for years, even prior to reservoir drawdown, and at least some of the pigs at Holiday Lake Estates could have arrived there from routes that did not involve traversing the drawn-down reservoir.

Response to Comment O5-24

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. Valley Water has not indicated that feral pigs reach Holiday Lake Estates by any one path and acknowledges that there are likely multiple pathways (from the east and south, and possibly from the north and even the west) by which pigs have reached the neighborhood. The regional and Statewide increase in feral pig populations, coupled with the presence of feral pigs in the vicinity of Anderson Reservoir prior to the FOCP, is responsible for the abundance of feral pigs at Holiday Lake Estates and in the Project Area as a whole.

Response to Comment O5-25

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. Valley Water concurs with the comment that feral pigs need a nearby water source and dense vegetation – both of which have been present at and around Anderson Reservoir for decades. It is the increase in feral pig populations, not a change in reservoir condition, that has resulted in the higher numbers of feral pigs being observed at Holiday Lake Estates and elsewhere in the region.

Response to Comment O5-26

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As described therein, the increase in feral pig numbers at Holiday Lake Estates has coincided with population increases throughout the region as feral pig populations continue to grow and expand, and there are multiple pathways (some of which do not involve pigs moving through the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Holiday Lake Estates. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Furthermore, the existing presence of feral pigs in the area, including their impact on local ecology and hazards to humans, is addressed in Section 3.5, *Biological Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR. Because the Project would not worsen the existing presence of feral pigs, the Project would not indirectly or adversely affect habitat that is considered sensitive or that supports species of special status or concern or other biological resources protected under CEQA and CEQA Guidelines (e.g., wetlands) due to the presence of feral pigs. Likewise, the Project would not indirectly result in hazards impacts with regard to potential interaction between feral pigs and humans in proximate neighborhoods. As such, the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to sensitive habitat, special-status species, and hazards.

Response to Comment O5-27

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. Valley Water concurs that feral pig populations can be assumed to be growing, and that the distribution of feral pigs is expanding.

CEQA does not require that the EIR quantify the precise number of pigs that are currently present in any one area, or that may occur in an area following Project implementation, and in any event, such quantification is infeasible. Valley Water does not dispute that wild pigs may have been rare in Holiday Lake Estates in the past, but the species' increase into the neighborhood has coincided with increases in numbers in the region as feral pig populations continue to grow and expand.

As for the exact route by which feral pigs have entered or will continue to enter Holiday Lake Estates, Valley Water has not indicated that feral pigs reached Holiday Lake Estates by any one path, and acknowledges that there are likely multiple pathways (from the east and south, and possibly from the north and even the west) by which pigs have reached the neighborhood.

Response to Comment O5-28

See Response to Comment O5-5 and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. The increase in feral pig numbers at Holiday Lake Estates has coincided with population increases throughout the region as feral pig populations continue to grow and expand, and there are multiple pathways (some of which do not involve pigs moving through

the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Holiday Lake Estates. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Please refer to Response to Comment O5-5. Valley Water disagrees with the statement that the FERC Order is irrelevant to the CEQA analysis for the ADSRP. On the contrary, the FERC Order requires implementation of a number of measures (collectively comprising the FOCF) which influence baseline conditions for the ADSRP.

Valley Water disagrees with the logic in this comment. If feral pig populations have increased in numerous locations in the region due to the species' regional population boom, yet a change in habitat conditions occurred at one location (i.e., the drawdown of Anderson Reservoir), it would be illogical to claim that increases at that one location absolutely resulted from the change in habitat conditions and were not influenced by the larger-scale population increase responsible for increases everywhere else.

Response to Comment O5-29

See Response to Comments O5-5, O5-15, and O5-28 and *Master Response 5 – Impacts of FOCF and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. The drawdown of the reservoir is not the only environmental change that occurred during the period between 2010 and 2013. Increases in feral pig populations occurred during that period as well, to the point that feral pig numbers in numerous locations have been newsworthy in recent years, including in many areas to the north and, as noted in Response to Comment O5-26, are not influenced by drawdown of Anderson Reservoir.

Response to Comment O5-30

See *Master Response 5 – Impacts of FOCF and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. Draft EIR Section 3.5, *Biological Resources*, page 3.5-84 describes the effects of further dewatering of Anderson Reservoir during Project construction related to feral pigs. Additionally, as discussed in Chapter 2, *Project Description*, on page 2-17 of the Final EIR, Valley Water would continue normal operations of Coyote Reservoir with the intent of maintaining flow in the reach of Coyote Creek between Coyote Dam and the upper end of Anderson Reservoir. It is possible that the draining of Anderson Reservoir and maintenance of flow in the reach of the creek between the two reservoirs could encourage some feral pigs to move away from Anderson Reservoir (and thus Holiday Lake Estates) during Seismic Retrofit construction, but the EIR properly concludes (page 3.5-85) that the Seismic Retrofit would not result in a substantial increase in feral pig activity in or near the Project area.

Response to Comment O5-31

See Response to Comment O5-30 and *Master Response 5 – Impacts of FOCF and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. The Draft EIR does not analyze where feral pigs or other animals will go once Anderson Reservoir is drained. As indicated in this comment, there are multiple sources of water

in the vicinity of the reservoir, and Valley Water will continue normal operations of Coyote Reservoir with the intent of maintaining flow in the reach of Coyote Creek between Coyote Dam and the upper end of Anderson Reservoir. Abundance and distribution of species requiring water may shift slightly away from Anderson Reservoir during Seismic Retrofit construction, but no large-scale, regional shifts in abundance would occur, and any regional trends (e.g., the continued increase in feral pig populations) would continue irrespective of the Project.

Response to Comment O5-32

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. Valley Water acknowledges that drawdown of the reservoir may facilitate movement of a variety of animals across the lakebed; this was described in the EIR as a potential beneficial effect for some species, such as the California red-legged frog and California tiger salamander (Final EIR Section 3.5, *Biological Resources*, page 3.5-113). The distinction between feral pigs and those amphibians, elk, or cows is that feral pig abundance has increased dramatically in recent years such that they are already numerous on both sides of the reservoir even under baseline conditions, whereas the abundance of those other species has not increased, and those species likely did not arrive at Holiday Lake Estates via pathways other than moving across the reservoir.

Response to Comment O5-33

See Response to Comment O5-31 and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. There are a number of ponds and streams on lands north, east, and south of Anderson Reservoir that would continue to provide water during Project construction, and Valley Water would continue normal operations of Coyote Reservoir with the intent of maintaining flow in the reach of Coyote Creek between Coyote Dam and the upper end of Anderson Reservoir.

Response to Comment O5-34

See Response to Comment O5-24 and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. Valley Water has not indicated that feral pigs reached Holiday Lake Estates by any one path, and acknowledges that there are likely multiple pathways (from the east and south, and possibly from the north and even the west) by which pigs have reached the neighborhood. There is no evidence in this comment or in the news report linked in this comment to indicate that the presence of feral pigs in the “lower meadow” suggests any one pathway for feral pigs entering Holiday Lake Estates.

Response to Comment O5-35

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As described therein, the increase in feral pig numbers at Holiday Lake Estates has coincided with population increases throughout the region as feral pig populations continue to grow and expand, and there are multiple pathways (some of which do not involve pigs moving through the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Holiday Lake

Estates. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Valley Water acknowledges that it owns lots in Holiday Lake Estates. The Corporations Code information provided in this comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR and no response is required.

Response to Comment O5-36

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. Valley Water acknowledges that the FOCP is a component of the cumulative impact analysis, as described in Section 3.0.6.5, *List of Relevant Projects*, and listed in Table 3.0-2. See Response to Comment O5-6 as to why the Project would not have a cumulatively considerable impact related to feral pig presence.

Response to Comment O5-37

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. The existing presence of feral pigs in the area, including their impact on local ecology, is addressed in Section 3.5, *Biological Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR. Because the Project would not worsen the existing presence of feral pigs, the Project would not indirectly or adversely affect habitat that is considered sensitive or that supports species of special status or concern or other biological resources protected under CEQA and CEQA Guidelines (e.g., wetlands) due to the presence of feral pigs. As such, the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to sensitive habitat and special-status species.

Response to Comment O5-38

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. The existing presence of feral pigs in the area, including their impact on local ecology and water quality, is addressed in Section 3.5, *Biological Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR. Because the Project would not worsen the existing presence of feral pigs, the Project would not indirectly or adversely affect habitat that is considered sensitive or that supports species of special status or concern or other biological resources protected under CEQA and CEQA Guidelines (e.g., wetlands) due to the presence of feral pigs. As such, the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to sensitive habitat, water quality, and special-status species.

Response to Comment O5-39

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. The existing presence of feral pigs in the area, including their impact on local ecology and water quality, is addressed in Section 3.5, *Biological Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of

the Final EIR. Because the Project would not worsen the existing presence of feral pigs, the Project would not indirectly or adversely affect habitat that is considered sensitive or that supports species of special status or concern or other biological resources protected under CEQA and CEQA Guidelines (e.g., wetlands) due to the presence of feral pigs. As such, the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to sensitive habitat, water quality, and special-status species.

Response to Comment O5-40

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As described therein, the increase in feral pig numbers at Holiday Lake Estates has coincided with population increases throughout the region as feral pig populations continue to grow and expand, and there are multiple pathways (some of which do not involve pigs moving through the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Holiday Lake Estates. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Furthermore, the existing presence of feral pigs in the area, including their impact on local ecology and hazards to humans, is addressed in Section 3.5, *Biological Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR. Because the Project would not worsen the existing presence of feral pigs, the Project would not indirectly or adversely affect habitat that is considered sensitive or that supports species of special status or concern or other biological resources protected under CEQA and CEQA Guidelines (e.g., wetlands) due to the presence of feral pigs. Likewise, the Project would not indirectly result in hazards impacts with regard to potential interaction between feral pigs and humans in proximate neighborhoods. As such, the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to sensitive habitat, special-status species, and hazards.

Response to Comment O5-41

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. There is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As a result, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While not required as part of Project EIR mitigation, for informational purposes, Valley Water has considered pig exclusion fencing, funding trapping and depredation, and directly undertaking trapping and depredation. Due to the adverse effects exclusion fencing can have on other wildlife species, the regional nature of the feral pig presence, and Valley Water's general policy against firearms on their property, these options were determined to be ineffective and/or infeasible. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement

between Valley Water and the U.S. Department of Agriculture's, Animal and Plant Health Inspection Service, Wildlife Services (USDA APHIS WS) by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment O5-42

Valley Water acknowledges the statistics regarding residents and lots, and regarding the locations of wildfire evacuation areas, provided in this comment. However, this comment provides no evidence to support the statement "the wild pig invasion has resulted in a reduction of the space available in the lower meadow." The recent increase in feral pigs in Holiday Lake Estates has not reduced the size of the lower meadow or affected the ability of residents to access the lower meadow. Although feral pig feces may make portions of the lower meadow less hospitable to human activity, they would not prevent the meadow's use as a wildfire evacuation area.

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. There is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As a result, no mitigation measures are necessary to reduce Project impacts related to feral pigs. Furthermore, Project impacts related to wildfire and emergency evacuation are addressed in Section 3.10, *Hazards and Hazardous Materials*, and Section 3.22, *Wildfire*, and as described on pages 3.10-36 through 3.10-39, 3.10-48, 3.10-49, 3.22-29 through 3.22-32, 3.22-38, and 3.22-39 of the Final EIR, impacts related to emergency response and evacuation, including during wildfires, would be less than significant with mitigation. However, as explained in *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* and Response to Comment O5-41, Valley Water will continue to work with other agencies, and to research and consider options for region-wide solutions to address the feral pig issue. For example, *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* discusses an agreement between Valley Water and the U.S. Department of Agriculture's, Animal and Plant Health Inspection Service, Wildlife Services (USDA APHIS WS) by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter P1

Response to Comment P1-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P2

Response to Comment P2-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P3

Response to Comment P3-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P4

Response to Comment P4-1

See Master Response to Comment 4 – *Impacts of FOCIP and ADSRP related to Rosendin Park Area Closures*, for a discussion of the revisions to the proposed closures of Rosendin Park. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Response to Comment P4-2

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. Nevertheless, the following response is provided.

The Project's construction timeline is discussed in Chapter 2, *Project Description*, starting on page 2-37 of the Final EIR. As discussed therein, the Seismic Retrofit component would take 7 years to construct. After circulation of the Draft EIR, Valley Water met with the Project Board of Consultants, which reviews the Project and makes recommendations to FERC, to discuss updated design plans and construction sequencing. In response to that meeting and Board of Consultants recommendations, Valley Water proposed in the Partially Recirculated Draft EIR to make certain construction changes such as extending work hours, adding some weekend days, and beginning work on certain Project components sooner. These proposed changes would allow Valley Water to construct planned Project components within the planned construction timeline before the wet season each year to improve its ability to complete the Project on schedule.

Response to Comment P4-3

See Master Response 5 – *Impacts of FOCIP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. Furthermore, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

The presence of feral pigs in the area is an existing condition that is part of the baseline for the Project. Using this baseline, Draft EIR Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, analyzes the impact of the Project related to biological resources as required by CEQA. As discussed in Section 3.5, *Biological Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR, the Project would not directly or indirectly worsen the presence of feral pigs. No changes to the Draft EIR are required.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for region-wide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the U.S. Department of Agriculture's, Animal and Plant Health Inspection Service, Wildlife Services (USDA APHIS WS) by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment P4-4

See Response to Comment P4-3, which discusses that the presence of and problems caused by feral pigs in Holiday Lake Estates is part of the CEQA baseline for the ADSRP. The comments about the Valley Water Board hearings on claims for feral pig damages due to reservoir drawdown do not pertain to the adequacy, content, or impact conclusions of the Draft EIR, and no further response is necessary. The claim submitted by David and Annette Batey on October 18, 2021, was reviewed in accordance with Valley Water's standard procedures and was denied by the Valley Water Board of Directors on January 11, 2022 (along with claims filed by three other parties), based on the determination that Valley Water was not legally liable for the alleged damages. This conclusion was supported by the fact there is no indication Valley Water has done anything negligent or unreasonable to cause feral pigs to enter onto the claimant's property, and the lack of a direct causal link between the FERC-mandated reservoir drawdown and the reported damage to the claimant's property.

Response to Comment P4-5

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. Nevertheless, the following response is provided.

Pursuant to FERC requirements, Anderson Reservoir must be operated to maintain the water surface at the FERC-restricted deadpool level, or approximately 3 percent of its total capacity. When water levels within Anderson Reservoir exceed this level, e.g., due to rainfall, excess water is released into Coyote Creek. Valley Water cannot store additional water beyond the FERC-restricted deadpool level in Anderson Reservoir until the Project is complete.

Responses to Comment Letter P5

Response to Comment P5-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. Furthermore, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

The presence of feral pigs in the area is an existing condition that is part of the baseline for the Project. Using this baseline, Draft EIR Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, analyzes the impact of the Project related to biological resources as required by CEQA. As discussed in Section 3.5, *Biological Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR, the Project would not directly or indirectly worsen the presence of feral pigs. No changes to the Draft EIR are required.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for region-wide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the U.S. Department of Agriculture's, Animal and Plant Health Inspection Service, Wildlife Services (USDA APHIS WS) by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment P5-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed under Response to Comment F5-1, the presence of feral pigs as referred to in residence reports and damage claim documents are part of the baseline used to analyze Project impacts, since they are existing conditions that are currently in place and have, thus, occurred prior to Project construction. Furthermore, see *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion regarding how the Project would not worsen the existing presence of feral pigs and would, therefore, not have adverse effects on biological resources, specifically sensitive species habitat or other biological resources protected under CEQA, in the Project vicinity. The damage claims need not be referenced in the EIR because they do not provide substantial evidence that drawdown of the reservoir as part of the FOCP was the main cause of the increase in feral pig numbers at Holiday Lake Estates, and because the existing conditions baseline used for the EIR impact analysis includes the FOCP drawdown. No changes to the Draft EIR are required.

Response to Comment P5-3

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. Furthermore, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Response to Comment P5-4

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P6

Response to Comment P6-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed. Due to these changes, Valley Water has determined that reinforcing the barriers at the dam area and/or sweeping the park before opening would not be necessary.

Comment Letter P7- Blalack, Jennifer

Letter P7

To Whom It May Concern:

Please keep the Holiday Drive entrance to Rosendin Park open during the Anderson Dam retrofit. Your concerns about safety do not warrant such radical action as closing the park for years!

Jennifer Blalack

P7-1

Responses to Comment Letter P7

Response to Comment P7-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P8

Response to Comment P8-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Trail overgrowth associated with park closure is not evaluated as an impact under CEQA. However, given the trail closure would be for a shorter period of time than described in the Draft EIR, trail overgrowth is not expected to pose a substantial issue. Maintenance of the park following re-opening of any trails would be the responsibility of the Santa Clara County Parks & Recreation Department.

Responses to Comment Letter P9

Response to Comment P9-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed. Due to these changes, Valley Water has determined that reinforcing the barriers at the dam area would not be necessary.

Responses to Comment Letter P10

Response to Comment P10-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P11

Response to Comment P11-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed. Due to these changes, Valley Water has determined that reinforcing the barriers at the dam area would not be necessary.

Responses to Comment Letter P12

Response to Comment P12-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed. Due to these changes Valley Water has determined that reinforcing the barriers at the dam area would not be necessary.

Responses to Comment Letter P13

Response to Comment P13-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Response to Comment P13-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As described therein, the increase in feral pig numbers at Holiday Lake Estates has coincided with population increases throughout the region as feral pig populations continue to grow and expand, and there are multiple pathways (some of which do not involve pigs moving through the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Holiday Lake Estates. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Comment Letter P14- Clark, Tom

Responses to Comment Letter P14

Response to Comment P14-1

The commenter stated that the Draft EIR fails to address impacts of airborne exposure related to naturally occurring asbestos (NOA). Impacts related to potential NOA exposure during construction activities were addressed in Section 3.10, *Hazards and Hazardous Materials*. Specifically, as described on pages 3.10-25 and 3.10-26 of the Final EIR, BMPs related to NOA disturbance would be implemented through Valley Water BMP AQ-1 (Use Dust Control Measures) and BMP-HM-13 (Avoid Impacts from NOA). These BMPs would minimize potential exposure impacts related to NOA through requirements including implementing fugitive dust control measures (e.g., watering disturbed surfaces, covering materials in haul trucks, limiting vehicle speeds in areas of NOA) and worker safety measures when working in areas that support serpentine soils. In addition, the Project must comply with the BAAQMD Airborne Toxic Control Measure (ATCM) for Construction that regulates construction projects that disturb NOA and that would require preparation of an asbestos dust mitigation plan that specifies how emissions will be minimized.

Furthermore, the Draft EIR found that a significant impact may still occur to the public when ground-disturbing activities occur in areas that support NOA. Therefore, as described on pages 3.10-30 through 3.10-32 of the Final EIR, Mitigation Measure HAZ-1 (Construction and Grading Operations Dust Control Measures), HAZ-2 (Track-out Control Measures for Roads), HAZ-3 (Traffic Control Measures within Construction Areas), HAZ-4 (Dust Control Measures During Earthmoving Activities), HAZ-5 (Dust Control Measures During Tunneling Activities), and HAZ-6 (Separation of Rock Containing NOA) would be required. Implementation of Mitigation Measure HAZ-1 (Construction and Grading Operations Dust Control Measures) requires implementation of dust control measures in all areas potentially containing NOA or other respiratory hazards during construction to reduce the potential for such hazards to become airborne. To minimize potential impacts that may occur through the track-out of materials from work areas to public roadways, Mitigation Measure HAZ-2 (Track-out Control Measures for Roads) and Mitigation Measure HAZ-3 (Traffic Control Measures within Construction Areas) will be implemented. Additional dust control measures will be implemented for earthmoving and tunneling activities as required by Mitigation Measure HAZ-4 (Dust Control Measures During Earthmoving Activities) and Mitigation Measure HAZ-5 (Dust Control Measures During Tunneling Activities). Note that Mitigation Measures HAZ-3 and HAZ-4 have been revised in the Final EIR to ensure alignment with the requirements of the BAAQMD ATCM, including regulations that require that Valley Water implement an approved Asbestos Dust Mitigation Plan (ADMP), as required by the BAAQMD Asbestos ATCM (BAAQMD 2002). The ADMP would include an air monitoring program for fugitive dust levels that would verify that mitigation measures and BMPs are effective in areas containing NOA. An Asbestos Air Monitoring Plan (AAMP) would also be prepared as part of the ADMP to monitor NOA fibers. The details of these dust and NOA monitoring programs would be determined prior to construction in coordination with BAAQMD. BAAQMD would be responsible for review and approval of the ADMP and AAMP.

Although excavated materials containing NOA from the portals, tunnels, and structures would be disposed of onsite, disposal of these materials may present a significant impact if they are not appropriately managed and disposed of properly. Implementation of Mitigation Measure HAZ-6 (Separation of Rock Containing NOA) will require the separation of rock containing NOA

from other rock types during construction. This measure will also require the preparation of an excavated materials management plan specifying how excavated rock will be properly classified, managed, and disposed during construction to minimize adverse impacts.

Implementing Mitigation Measures HAZ-1 through HAZ-6 would reduce the impacts of airborne exposure to NOA to less than significant.

Response to Comment P14-2

See Response to Comment P14-1 for discussion regarding how impacts related to potential NOA exposure were addressed in Section 3.10, *Hazards and Hazardous Materials*. NOA is addressed under Impact HAZ-2 starting on page 3.10-27 of the Final EIR, which states that the Project is required to comply with federal, State, and local laws, regulations, and policies designed to minimize hazardous materials exposure impacts with regard to the public and construction workers. For Seismic Retrofit construction, compliance with the BAAQMD ATCM for Construction, and Valley Water BMP AQ-1 (Use Dust Control Measures) and BMP HM-13 (Avoid Impacts from NOA) would minimize potential impacts related to NOA exposure by requiring dust and air quality management measures, including implementation of BAAQMD's BMPs for dust suppression (Valley Water BMP AQ-1 on page 3.10-26), and through the implementation of worker safety measures and dust control (BMP HM-13 on page 3.10-26). As stated on page 3.10-29 implementation of Mitigation Measure HAZ-1 (Construction and Grading Operations Dust Control Measures), Mitigation Measure HAZ-2 (Track Out Control Measures for Roads from NOA-Containing Areas), Mitigation Measure HAZ-3 (Traffic Control Measures within NOA-Containing Construction Areas), Mitigation Measure HAZ-4 (Dust Control Measures During Earthmoving Activities), Mitigation Measure HAZ-5 (Dust Control Measures During Tunneling Activities), and Mitigation Measure HAZ-6 (Separation of Rock Containing NOA) reduces the Project's impact related to hazardous materials exposure to less than significant with mitigation through dust control measures for Project activities. Among other requirements and as stated on page 3.10-29 of the Final EIR, Mitigation Measure HAZ-1 requires that wind speeds be monitored using a weather station located on site and all excavation, grading, and demolition activities be suspended when wind speeds exceed 20 mph for a minimum of 30 minutes. The aforementioned BMPs and mitigation measures are specific and measurable actions that are required to be implemented and monitored during Project construction activities with regards to mitigating airborne NOA exposure potential. The BAAQMD ATCM regulations require that Valley Water implement an approved ADMP that would include an air monitoring program for fugitive dust levels that would verify that mitigation measures and BMPs are effective in areas containing NOA, and Mitigation Measures HAZ-3 and HAZ-4 have been revised in the Final EIR consistent with BAAQMD and ADMP requirements.

Response to Comment P14-3

See Response to Comment P14-1 for discussion regarding how impacts related to potential NOA exposure were addressed in Section 3.10, *Hazards and Hazardous Materials*. Compliance with the BAAQMD ATCM for Construction, Valley Water will implement BMP AQ-1 (Use Dust Control Measures) and BMP HM-13 (Avoid Impacts from NOA), and Mitigation Measure HAZ-1 (Construction and Grading Operations Dust Control Measures), Mitigation Measure HAZ-2 (Track Out Control Measures for Roads from NOA-Containing Areas), Mitigation Measure HAZ-3 (Traffic Control Measures within NOA-Containing Construction Areas), Mitigation Measure HAZ-4 (Dust Control Measures During Earthmoving Activities), Mitigation Measure HAZ-5 (Dust Control

Measures During Tunneling Activities), and Mitigation Measure HAZ-6 (Separation of Rock Containing NOA) that would be required when ground-disturbing activities occur in areas that could include NOA. The BAAQMD ATCM regulations require that Valley Water implement an approved ADMP that would include a perimeter air monitoring program for NOA; the details of this air monitoring program would be determined prior to construction in coordination with the BAAQMD. As such, airborne NOA exposure was addressed in the EIR.

Response to Comment P14-4

The OEHHA threshold for asbestos is not an applicable CEQA threshold and rather is applicable to industrial and consumer product content. Instead, the applicable NOA regulation for the Project is set by the BAAQMD ATCM for Construction. The BAAQMD ATCM regulations require that Valley Water implement an approved ADMP that would address specific emissions sources, specify how the emissions will be minimized, and include a perimeter air monitoring program when ground-disturbing activities occur in areas that could include NOA. BAAQMD would be responsible for review and approval of the ADMP. Mitigation Measure HAZ-3 (Traffic Control Measures within NOA-Containing Construction Areas) and Mitigation Measure HAZ-4 (Dust Control Measures During Earthmoving Activities) have been revised in the Final EIR consistent with BAAQMD and ADMP requirements. As such, airborne NOA exposure was addressed in the EIR.

Pursuant to CEQA Guidelines Section 15126, an EIR shall identify significant environmental effects of a project and identify mitigation measures to minimize the significant effects. See Response to Comment P14-1 for how impacts related to NOA exposure were addressed in Section 3.10, *Hazards and Hazardous Materials*. As such, the EIR addresses potential environmental effects on the environment as well as the public. Thus, the EIR complies with the applicable CEQA policies in 14 CCR Section 15003.

Response to Comment P14-5

The commenter states that the EIR should be rejected until methods to demonstrate that airborne levels of asbestos are at acceptable concentrations to the receptors in the community are developed, reviewed, and accepted by persons with recognized expertise. See Responses to Comments P14-1 through P14-4 for discussion regarding how impacts related to NOA exposure were addressed and mitigated to a less-than-significant level in Draft EIR Section 3.10, *Hazards and Hazardous Materials*. Section 3.10, *Hazards and Hazardous Materials*, was prepared and reviewed by hazardous materials experts and is adequate in terms of impact assessment and associated mitigation measures related to potential airborne NOA exposure.

Responses to Comment Letter P15

Response to Comment P15-1

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks* for discussion about the Project, associated potential wildfire hazards, and Project-related impacts and mitigation measures to address wildfire risk.

Response to Comment P15-2

Regarding property values, pursuant to CEQA Guidelines Section 15131, economic or social effects of a project shall not be treated as a significant effect on the environment. As such, EIR analysis of a project's impacts on property values is not required.

The comment regarding an "elk herd" is not specific. For additional information regarding the presence of and impacts on Tule elk, see Response to Comment P16-2.

The commenter inquired regarding the meaning of retrofit but does not expand to clarify if this pertains to any specific Draft EIR adequacy, content, or impact conclusions. The purpose of the Project and seismic retrofit is described on page 2-12 in Chapter 2, *Project Description*, of the Final EIR, and an overview of seismic retrofit components is provided on page 2-14. No further response is required.

Response to Comment P15-3

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for discussion about the Project and associated potential feral pig impacts.

Response to Comment P15-4

Project costs do not pertain to an impact analyzed in the Draft EIR. This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment P15-5

The comment regarding an elk herd turning the residential area into a gravel yard is unclear. Valley Water does not foresee impacts of the ADSRP as including increasing the presence of elk herds that would adversely affect residential areas. For additional information regarding the presence of and impacts on Tule elk, see Response to Comment P16-2.

Response to Comment P15-6

See *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks* for discussion about the Project, associated potential wildfire hazards, and Project-related impacts and mitigation measures to address wildfire risk.

Response to Comment P15-7

The Project's construction timeline is discussed starting on page 2-37 of Chapter 2, *Project Description*. As discussed therein, the Seismic Retrofit component would take 7 years to construct. After circulation of the Draft EIR, Valley Water met with the Project Board of Consultants, which reviews the Project and makes recommendations to FERC, to discuss updated design plans and construction sequencing. In response to that meeting and Board of Consultants recommendations, Valley Water proposed in the Partially Recirculated Draft EIR to make certain construction changes such as extending work hours, adding some weekend days, and beginning work on certain Project components sooner. These proposed changes would allow Valley Water to construct planned Project components within the planned construction timeline before the wet season each year to improve its ability to complete the Project on schedule.

Response to Comment P15-8

Refer to Response to Comment P15-2 for information pertaining to the analysis of property values under CEQA.

Response to Comment P15-9

This comment does not pertain to the adequacy, content, or conclusions in the Draft EIR. No further response is required.

Comment Letter P16- Clifton, Chris (2)

Responses to Comment Letter P16

Response to Comment P16-1

The commenter inquired regarding the meaning of retrofit but does not expand to clarify if this pertains to any specific Draft EIR adequacy, content, or impact conclusions. No further response is required.

Response to Comment P16-2

Tule elk are present in the hills north of Anderson Dam and east of Anderson Reservoir, and during the FOCF they occur in the bed of the drawn-down reservoir as well. This species would not be significantly impacted by the Project. No individuals would be injured or killed as a result of the Project; the Project would not result in permanent impacts to their habitat; and the Project would not result in significant adverse effects on the species' ability to engage in regional dispersal or to use surrounding habitat areas. Elk that would otherwise obtain water from the reservoir would need to use alternative water sources, such as ponds in surrounding areas and San Felipe Creek, Packwood Creek, or the reach of Coyote Creek between Coyote Dam and Anderson Reservoir. As discussed on page 2-17 of the Final EIR, Valley Water intends to continue normal operations of Coyote Reservoir with the intent of maintaining flow in the reach of Coyote Creek between Coyote Dam and the upper end of Anderson Reservoir, which would provide water for elk in that area. Because the Project would not result in a significant impact on tule elk, no mitigation measures for this species are necessary.

Comment Letter P17- Clifton, Leigh Ann (1)

Responses to Comment Letter P17

Response to Comment P17-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Response to Comment P17-2

This comment mentions the Project's "impact on flora and fauna." The EIR evaluates impacts on flora and fauna in detail, describing existing conditions with respect to plants and animals in Section 3.5.1 and impacts in Sections 3.5.3, 3.5.4, and 3.5.5.

Response to Comment P17-3

Final EIR pages 3.20-3 and 3.20-4 in Section 3.20.1.1, *Native American Consultation*, summarize the Native American outreach conducted during preparation of the Draft EIR that included efforts to contact eight locally affiliated Native American Tribes and incorporated feedback received from two Tribes (Ohlone Indian Tribe and the Amah Mutsun Tribal Band). The specific details about the locations of tribal cultural resources are confidential and, thus, are not included in the Draft EIR; however, the Draft EIR includes mitigation measures related to historic, archaeological, and tribal cultural resources that were developed in part based on feedback from the Tribes and specific to the Project. These measures include Mitigation Measure CR-1 (Pre-construction Cultural Resources Awareness Training), Mitigation Measure CR-2 (Prepare a Data Recovery and Treatment Plan for Historical Resources that Cannot be Avoided), and Mitigation Measure CR-3 (Prepare a Monitoring and Unanticipated Discoveries Plan). Specific to Tribal coordination, Mitigation Measure CR-3 will provide for monitoring and addressing discoveries of human remains and other Native American materials in a Monitoring and Unanticipated Discoveries Plan that would be prepared in consultation with Project consulting Tribes.

Response to Comment P17-4

See Response to Comment 17-3 for a discussion regarding how Valley Water has conducted adequate Tribal consultation related to the Project and incorporated associated feedback from the Tribes into the Draft EIR mitigation measures related to historic, archaeological, and tribal cultural resources.

Response to Comment P17-5

This comment does not pertain to the adequacy, content, or conclusions in the Draft EIR. No further response is required.

Response to Comment P17-6

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Response to Comment P17-7

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a discussion of how emergency access will be preserved during temporary park closures. Additionally, see *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risks* for a discussion of circulation, access, and egress during a potential wildfire event. As discussed therein, Project construction would not substantially prevent use of existing evacuation routes in Anderson Lake County Park or prevent use of existing routes for the purpose of emergency response access.

Response to Comment P17-8

Tule elk are present in the hills north of Anderson Dam and east of Anderson Reservoir, and during the FOCP they occur in the bed of the drawn-down reservoir as well. This species would not be significantly impacted by the Project. No individuals would be injured or killed as a result of the Project; the Project would not result in permanent impacts to their habitat; and the Project would not result in significant adverse effects on the species' ability to engage in regional dispersal or to use surrounding habitat areas. Elk that would otherwise obtain water from the reservoir would need to use alternative water sources, such as ponds in surrounding areas and San Felipe Creek, Packwood Creek, or the reach of Coyote Creek between Coyote Dam and Anderson Reservoir. As discussed on page 2-17 of the Final EIR, Valley Water intends to continue normal operations of Coyote Reservoir with the intent of maintaining flow in the reach of Coyote Creek between Coyote Dam and the upper end of Anderson Reservoir, which would provide water for elk in that area. Because the Project will not result in a significant impact on tule elk, no mitigation measures for this species are necessary.

Response to Comment P17-9

As discussed in Section 2.5.2.2, *Stockpile Areas*, designated stockpile areas would be used for temporary storage and processing of embankment and fill materials throughout the duration of Project construction activities. Storing construction debris only north of the dam would not be feasible because there is insufficient space to stockpile materials in the reservoir, and due to terrain-related constraints in building access roads to reach these areas.

Fugitive dust and air quality impacts from Project construction were addressed in Section 3.3, *Air Quality*. Specifically, Final EIR page 3.3-29 states that Valley Water BMP AQ-1 (Use Dust Control Measures) would be implemented for fugitive dust control. In addition, all projects must

comply with the BAAQMD District Rule 6-1, which limits fugitive particulate emissions, and Rule 6-6, which limits track-out of solid materials onto paved public roads outside the boundaries of large construction sites. Furthermore, on page 3.3-45, the Final EIR found that, even with implementation of Valley Water BMP AQ-1, fugitive dust impacts would be significant and, thus, implementation of Mitigation Measure AQ-3 (Implement BAAQMD Enhanced Construction BMPs) is required, which would include planting vegetative ground cover or using a soil stabilizer and minimizing the simultaneous occurrence of excavation, grading, and ground-disturbing activities on the same area at any one time, whenever feasible. The Final EIR, on page 3.3-35, found that air pollutant emissions from construction activity would be significant. Therefore, Mitigation Measure AQ-1 (Implement Construction Criteria Air Pollutants Reduction Measures) is required, which would ensure that off-road construction equipment would have cleaner engines, that all construction equipment is maintained and checked by a certified mechanic, and that idling time is minimized to no more than 2 minutes when equipment is not in use.

Final EIR pages 3.16-31 through 3.16-79 in Section 3.16, *Noise and Vibration*, addressed Project construction noise impacts. Specifically, the Draft EIR concluded that construction noise would be significant and, thus, implementation of Mitigation Measures NOI-1 (Implement Construction Noise Reduction Measures) and NOI-2 (Implement Seismic Retrofit Construction Noise Reduction Measures) are required. Mitigation Measure NOI-1 will require Valley Water to implement a Construction Management Plan, which would require prior notice of construction activities to nearby sensitive receptors, proper maintenance of all construction equipment, equipping all construction equipment with mufflers and air intake silencers, locating staging and delivery areas as far from sensitive receptors (e.g., residences) as is feasible, enclosing stationary noise sources in temporary sheds, restricting the use of bells, whistles, alarms, and horns, and posting signs at construction area entrances to reinforce the prohibition of unnecessary idling. Mitigation Measure NOI-2 is specific to Seismic Retrofit construction and will require the installation of a temporary noise barriers at Staging Area 1 (as feasible)⁶, limiting of construction activity within close distances of residences, posting of signs with a noise complaint phone number, and construction noise monitoring during nighttime periods of construction. Finally, Mitigation Measure NOI-5 (Implement Blasting Plan) requires monitoring by a qualified engineer or acoustical consultant. Monitoring results will be used to adjust the blast loading limit. The Blasting Plan will include details regarding outreach to sensitive receptors (e.g., residences) with advance noticing and contact information regarding noise complaints.

Regarding the commenter's concern with increased traffic for Holiday Lake Estates residents, traffic flow and/or congestion are no longer environmental issues of concern under CEQA (refer to CEQA Guidelines Section 15064.3(a)), and therefore are not analyzed.

Response to Comment P17-10

As specified in Chapter 2, *Project Description*, on page 2-54 of the Final EIR and shown in Figure 2-4, blasting would occur at the BHBA. Excavation of the BHBA would require drilling and blasting in benches to break up the rock for efficient excavation. Blasting procedures would be

⁶ Note: Mitigation Measure NOI-2 has been revised in the Final EIR to remove the requirement for a noise barrier at Stockpile Area E. Stockpile Area E is set further back (approximately 700 feet) from residences located along Cochrane Road and local topography serves as a natural noise barrier, thus additional noise barriers were determined to be ineffective and unnecessary.

developed by a qualified blaster to control noise, air-overpressure, ground vibration, flyrock, and dust.

As explained in *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures*, blasting is tentatively scheduled for Years 4, 5 and/or 6 of Seismic Retrofit Component construction. Initial blasting activities are anticipated to present the most public safety risks throughout the duration of blasting. Once the initial blasting activities have occurred, the public safety risk would be reduced substantially, as the blasting activities would occur inwards and the initial blasting would form an outer rock wall that would act as a protection barrier for the Rosendin Park Area. The initial blasting is anticipated to occur sometime during Years 4, 5, or 6 of the Seismic Retrofit Component construction. When the blasting is initiated, a full closure of the entire park including all trails is necessary to allow the blasting to complete in 3 to 4 months to protect public safety during the initial blasting activities. The safety zone or area where the public must be excluded during blasting is estimated to be 1,000 feet from the perimeter of the BHBA (see Figure 2-4). The distance rock may travel during blasting is expected to be significantly less and dependent on means and methods proposed by the contractor, which are currently unknown. Prior to blasting, the contractor will prepare a Blasting Plan to describe their means and methods. The Blasting Plan will be approved by the Valley Water Blasting Engineer prior to start of each blast. As noted in this comment, homes and roads exist within the 1,000 foot safety zone. Valley Water expects measures can be implemented by the contractor to allow homes to be occupied and roads to remain open for the duration of work. These measures may include requiring residents to remain indoors and requiring flagmen to control access to roads during blasting, respectively. Specific to Rosendin Park, the area of park closure may extend beyond the safety zone in order to adequately control access and keep the public from entering the safety zone. Valley Water will plan and coordinate all park closure with County Parks

Response to Comment P17-11

The EIR evaluates impacts on endangered and threatened flora and fauna in detail, describing existing conditions with respect to such species in Section 3.5.1 and impacts in Sections 3.5.3, 3.5.4, and 3.5.5. As discussed throughout much of the EIR, the Project is a covered activity under the VHP. Valley Water's compliance with the VHP includes compliance with a number of measures to avoid and minimize impacts on endangered and threatened species and their habitats (e.g., see Table 3.5-7 on page 3.5-68 and Table 3.5-8 on pages 3.5-69 through 3.5-79 of the Final EIR). The Project also incorporates a number of Valley Water BMPs to avoid and minimize impacts on endangered and threatened species and their habitats, as summarized in Table 3.5-6 on pages 3.5-66 and 3.5-67 of the Final EIR. Further, the EIR included mitigation measures for impacts on endangered and threatened species and their habitats where necessary to further reduce impacts.

Response to Comment P17-12

The EIR evaluates impacts on pallid bats, and mitigation measures to reduce those impacts, in Impact TERR-1h, beginning on page 3.5-148 of the Final EIR. Impact TERR-1h specifically addresses impacts of noise and lighting from nighttime work. Although the known pallid bat roost occupies a barn, rather than caves as mentioned in the comment, Mitigation Measure TERR-1h(3) will be implemented to minimize the potential to impact pallid bats outside of the barn, such as in trees or rock outcrops. No Project activities are proposed close enough to any caves to adversely affect cave-roosting bats. With implementation of the buffers between work

activities and the roost in the Cochrane Road barn specified in Mitigation Measure TERR-1h(1), air quality impacts on bats will not be substantial, as bats will be far enough from sources of air pollution that they would not be substantially affected.

Response to Comment P17-13

Valley Water hosted a tour with the general public of the Anderson Dam and Ogier Ponds components areas on September 17, 2024. This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Responses to Comment Letter P18

Response to Comment P18-1

Valley Water BMP CU-1 (Accidental Discovery of Archaeological Artifacts or Burial Remains) requires that if historical or unique archaeological artifacts are accidentally discovered during construction, work in affected areas will be restricted or stopped until proper protocols are met. Additionally, as described in Section 3.6, *Cultural Resources*, on pages 3.6-43 through 3.6-45 of the Final EIR, Mitigation Measures will be implemented to provide protection and preservation of historic and archaeological sites during Project construction activities. Mitigation Measure CR-1 (Preconstruction Cultural Resources Awareness Training) requires construction crews to receive awareness training for identifying archaeological materials uncovered during ground disturbance. Mitigation Measure CR-2 (Prepare a Data Recovery and Treatment Plan for Historical Resources that cannot be Avoided) requires that a Data Recovery and Treatment Plan be prepared for those historical resources that cannot be avoided by construction. The Data Recovery and Treatment Plan will also include a specific discussion of the methods and level of effort at each site for data recovery excavations, which are an acceptable form of mitigation under Section 15126.4(b)(3)(C) of the CEQA Guidelines. Specific plans for Native American sites will be prepared in consultation with Native American Tribes who participated in EIR Tribal consultation. Mitigation Measure CR-3 (Prepare a Monitoring and Unanticipated Discoveries Plan) requires that work stop in the vicinity of any archaeological materials discovered during Project construction, and that a Monitoring and Unanticipated Discoveries Plan will provide protocols for monitoring and treating archaeological deposits discovered during construction.

As discussed on page 3.6-44 and 3.6-45, these mitigation measures would reduce historic and archaeological impacts of Project construction by avoiding material alteration or destruction of such resources in a manner that would result in these resources no longer being able to convey their significance. These measures provide sufficient detail on mitigating impacts related to historic and archaeological resources to a less-than-significant level. As such, additional detail is not required to be added to the EIR.

Responses to Comment Letter P19

Response to Comment P19-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Comment Letter P20- Connors, David

Responses to Comment Letter P20

Response to Comment P20-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. Furthermore, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

The presence of feral pigs in the area is an existing condition that is part of the baseline for the Project. Using this baseline, Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, analyzes the impact of the Project related to biological resources as required by CEQA. As discussed in Section 3.5, *Biological Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR, the Project would not directly or indirectly worsen the presence of feral pigs. No changes to the Draft EIR are required.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for region-wide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the U.S. Department of Agriculture's, Animal and Plant Health Inspection Service, Wildlife Services (USDA APHIS WS) by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter P21

Response to Comment P21-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P22

Response to Comment P22-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Response to Comment P22-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for discussion about the Project and associated potential feral pig impacts.

Response to Comment P22-3

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P23

Response to Comment P23-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Comment Letter P24- Donnelly, Juanita

Responses to Comment Letter P24

Response to Comment P24-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. Furthermore, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

The presence of feral pigs in the area is an existing condition that is part of the baseline for the Project. Using this baseline, Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, analyzes the impact of the Project related to biological resources as required by CEQA. As discussed in Section 3.5, *Biological Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR, the Project would not directly or indirectly worsen the presence of feral pigs. No changes to the Draft EIR are required.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for region-wide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the U.S. Department of Agriculture's, Animal and Plant Health Inspection Service, Wildlife Services (USDA APHIS WS) by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter P25

Response to Comment P25-1

Section 3.6, *Cultural Resources*, evaluated potential impacts on the Rhoades Ranch Historic District. As stated in Section 3.6.5, Impact Analysis, on page 3.6-50 of the Final EIR, Project construction activities would not occur within the boundaries of the Historic District and therefore would not have a direct impact on the district. Indirect impacts on the Rhoades Ranch Historic District were determined to be less than significant and are addressed under Response to Comments P25-2 through P25-6 below.

Any impacts associated with FOC construction, which is currently underway, are considered as part of the EIR's Existing Conditions Baseline and would not be caused by Project construction. FOC is a separate project under CEQA given the project is a single and complete action that has independent utility separate from ADSRP. Furthermore, FOC activities near the Rhoades Ranch Historic District are limited to installing piping and fencing, and impacts would be minor and limited.

Response to Comment P25-2

See Response to Comment P14-1 for discussion regarding how impacts related to NOA were addressed in Section 3.10, *Hazards and Hazardous Materials*.

Response to Comment P25-3

Deposition of NOA in agricultural areas is not considered an agricultural impact under CEQA unless that deposition results in the conversion of that land to non-agricultural use. While NOA could become airborne through Project construction activities that may generate dust containing NOA such as clearing and grading, tunneling, and hauling materials within and offsite, compliance with the BAAQMD ATCM for Construction, implementation of Valley Water BMP AQ-1 (Use Dust Control Measures) and BMP HM-13 (Avoid Impacts from NOA), and implementation of Mitigation Measure HAZ-1 (Construction and Grading Operations Dust Control Measures), Mitigation Measure HAZ-2 (Track Out Control Measures for Roads from NOA-Containing Areas), Mitigation Measure HAZ-3 (Traffic Control Measures within NOA-Containing Construction Areas), Mitigation Measure HAZ-4 (Dust Control Measures During Earthmoving Activities), Mitigation Measure HAZ-5 (Dust Control Measures During Tunneling Activities), and Mitigation Measure HAZ-6 (Separation of Rock Containing NOA) would minimize disturbance of NOA and reduce resultant airborne dust that could include NOA and be deposited on adjacent land uses. With the measures described above, NOA deposition on agricultural lands is not expected to occur at the concentrations necessary to result in the conversion of agricultural land to non-agricultural uses. As such, Project construction impacts related to airborne NOA deposition in the environment, including agricultural lands, are not expected to be significant (see Final EIR Section 3.10, *Hazards and Hazardous Materials*, page 3.10-29).

Response to Comment P25-4

Existing impacts described by the commenter are associated with FOC construction, which is currently underway. These conditions are considered as part of the Existing Conditions Baseline

and not within the scope of the analysis of the ADSRP Draft EIR. FOCIP is considered a separate project under CEQA given the project is a single and complete action that has independent utility separate from ADSRP.

Pursuant to CEQA Guidelines Section 15131, economic or social effects of a project are not considered significant effects on the environment. As such, EIR analysis of a project's impacts on property values is not required.

See Response to Comment P14-1 for a discussion regarding how impacts associated with airborne NOA were addressed and mitigated in Section 3.10, *Hazards and Hazardous Materials*.

Section 3.16, *Noise and Vibration*, addressed Project construction noise impacts. Specifically, the EIR concluded that construction noise would be significant and, thus, implementation of Mitigation Measures NOI-1 (Implement Construction Noise Reduction Measures) and NOI-2 (Implement Seismic Retrofit Construction Noise Reduction Measures) are required. Mitigation Measure NOI-1 will require Valley Water to implement a Construction Management Plan, which would require prior notice of construction activities to nearby sensitive receptors, proper maintenance of all construction equipment, equipping all construction equipment with mufflers and air intake silencers, locating staging and delivery areas as far from sensitive receptors (e.g., residences) as is feasible, enclosing stationary noise sources in temporary sheds, restricting the use of bells, whistles, alarms, and horns, and posting signs at construction area entrances to reinforce the prohibition of unnecessary idling. Mitigation Measure NOI-2 is specific to Seismic Retrofit construction and will require the installation of a temporary noise barrier at Staging Area 1, limiting of construction activity within close distances of residences, posting of signs with a noise complaint phone number, and construction noise monitoring during nighttime construction. Mitigation Measure NOI-5 (Implement Blasting Plan) will also be required that will include monitoring by a qualified engineer or acoustical consultant. Monitoring results will be used to adjust the blast loading limit. The Blasting Plan will include details regarding outreach to sensitive receptors (e.g., residences) with advance noticing and contact information regarding noise complaints.

Section 3.16, *Noise and Vibration*, also addressed Project construction vibration impacts. Specifically, page 3.16-76 of the Final EIR concluded that, during Project construction, the construction vibration threshold could be exceeded at a sensitive receptor R-2 near Staging Area 1 due to construction of the Seismic Retrofit and the Sediment Augmentation Program. The Partially Recirculated Draft EIR added sensitive receptor R-32 (located at the building at 2390 Cochrane Road, nearest to the dam) near Staging Area 4 and concluded that the construction vibration threshold would also be exceeded at this receptor. Mitigation Measure NOI-4 (Seismic Retrofit and Sediment Augmentation Program Construction Vibration Reduction Measures) will require the use of oscillatory or static rollers in lieu of vibratory rollers for compaction near residential structures to mitigate vibration impacts to a less-than-significant level.

Impacts associated with nighttime construction lighting during Seismic Retrofit construction are discussed in Section 3.1, *Aesthetics*, starting on page 3.1-61 of the Final EIR. The analysis of light and glare under Impact AES-3 was revised in the Partially Recirculated Draft EIR based on the changes to the Seismic Retrofit construction hours, which includes an increased number of Seismic Retrofit construction activities and construction days involving early morning, evening, and nighttime construction. As discussed in the Draft and Partially Recirculated Draft EIR, limited construction lighting may be visible from nearby public roads, which would be a substantial new source of nighttime lighting. Implementation of Mitigation Measure AES-3 (Construction

Lighting) would reduce this impact to a less-than-significant level by requiring construction contractors to shield construction lighting at night.

Response to Comment P25-5

To accommodate the realignment of Coyote Creek and installation of the new dam outlet, Valley Water must remove the current diversion point from Coyote Creek. Valley Water recognizes the commenter's deeded riparian right to divert natural flows from Coyote Creek for reasonable, beneficial use on commenter's property. Based on the dilapidated condition of the water diversion infrastructure, it appears riparian diversions from Coyote Creek have not occurred for many years. Nonetheless, Valley Water will either seek to acquire the riparian water right or assist the commenter in relocating its diversion infrastructure downstream of Coyote Creek.

During construction, all flows will be bypassed at Anderson Dam and will be available for riparian uses. Once constructed, flows will be the same as pre-project conditions. Valley Water will bypass the natural flow outside of its diversion season, making them available for riparian uses.

Response to Comment P25-6

Section 3.6, *Cultural Resources*, on page 3.6-50 of the Final EIR considers the impact of the road realignment related to the Rhoades Ranch Historic District and states that the Cochrane Road realignment would not impact the District within which the Historic Rhoades Ranch is located. Work associated with Coyote Road, which extends from Cochrane Road up to the Boat Ramp Parking Area, overlaps with the work associated with Cochrane Road where it occurs adjacent to the Rhoades Ranch Historic District. Construction activities associated with Cochrane Road and Coyote Road, as well as establishment of a staging area adjacent to the property but on the opposite side of Cochrane Road at Anderson Lake County Park, would likely increase noise and dust levels, but these impacts would be temporary and would not permanently alter the integrity or significance of the Rhoades Ranch Historic District. BMPs and mitigation measures for dust suppression (BMP AQ-1 and Mitigation Measures AQ-2 and AQ-3) and noise (Mitigation Measures NOI-1 and NOI-2) are included in the Draft EIR to minimize these impacts. As such, the Draft EIR concluded that impacts related to the Rhoades Ranch Historic District would be less than significant.

Responses to Comment Letter P26

Response to Comment P26-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P27

Response to Comment P27-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Comment Letter P28- Hall, Harris

Letter P28

From: [Harris Hall](#)
To: [ADSRPcomments](#)
Cc: [John Varela](#)
Subject: Declaration of pig damage from the Anderson Dam retrofit and comments on the Draft EIR comments
Date: Wednesday, November 8, 2023 3:39:24 PM

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

My name is Harris Hall and have lived at 17111 Holiday Drive next to Lake Anderson since March 8, 2006. My property is also adjacent to Holiday Lake Estates' (HLE)'s 4.7 acre "Lower Meadow" (meadow) common area. I have served as a one of eight elected members of the HLE (AKA HEMA) Board of Directors since 2006 and as a President for three of those years.

I walk my dog daily through this meadow, and, prior to the Lake Anderson draining starting October 1, 2020, saw no evidence of wild pigs. Since then, the meadow has been extensively damaged by wild pigs.

Since the draining of Lake Anderson, the wild pigs have colonized the dry lake bed and use it their base to enter our and Jackson Oaks neighborhoods. The meadow and MANY homeowners properties continue to be regularly damaged by wild pigs both the day and the night. We have homeowners afraid to walk their dogs along the streets or the meadow because the pigs are no fearful of humans. I am afraid it is only a matter of time before someone is injured with sounders of 10-25 wild that include 100-500-pound feral pigs roaming our neighborhood. If safety if a major goal of the project as stated, then this major safety issue cause by the lake draining must be addressed.

Other than one instance in 2018 for which HLE sought a depredation permit after we found very limited damage, likely from one or two wild pigs (not sounders of 25+ wild pigs). I know of - nor heard of - any wild pigs damage (rooting, feces, sightings) anywhere in Holiday Lake Estates since 2006.

For many years as a HLE Director, I have written the HLE newsletter that compiles homeowner and board issues. This newsletter, sent to 1,597 residents in the 493 Holiday Lake Estates homes, has never had to wild pigs in Holiday Lake Estates prior to the draining of Lake Anderson. Other than a single 2018 incident, we had no homeowner complaints. Now complaints are common in homeowner meetings, in social media, and in architectural requests for new fencing. The Lower meadow is again this year damaged and littered with large pig feces so residents have stopped using the meadow due to the unsanitary conditions and muddied areas. We converted part of the meadow to mulch and applied costly grub killer as deterrents, but the pigs continue to visit the meadow nightly (and at dawn, dusk) and damage large swaths of remaining turf with feces everywhere.

Like many homeowners, I follow Nextdoor and saw the initial invasion of a pig sounder near the old boat marina in Holiday Lake Estates in September 2021. The meadow damage occurred after that the initial pig sounder was reported in August 2021 by Alie Saad (Oak Lane) and Diana Guido (old boat marina). The wild pig damage at the lower meadow and elsewhere in HLE is due to the draining of Lake Anderson and not due to the natural migration of pigs over land (from the north at Rosendin Park) or from the south (near Lake Anderson bridge).*

As a Director, I have been involved in wildfire mitigation measures where the meadow serves as a temporary wildfire refuge area in cooperation with the fire and related agencies (e.g., Firewise Council). The meadow, is a flat open space critical for residents seeking refuge from a wildfire or other emergency. It is also one of the few areas where we can land helicopters for emergency medical evacuations. The pig damage compromises this area and its ability to serve in these capacities.

I was astonished to see no mitigation in the Anderson Dam EIR. This problem is the major environmental impact for Jackson Oaks and HLE residents caused by the Lake Anderson draining. Pig mitigation effort in the EIR need to be outlined for the EIR to be considered legitimate. Possible mitigation options of trapping in the lake bed to reduce the pig population, exclusionary fencing of the lake bed from HLE, and financial help for an exclusionary fencing around the HLE meadow and possibly homeowner properties should be addressed in the EIR and funded.

P28-1

P28-2

P28-3

P28-4

Responses to Comment Letter P28

Response to Comment P28-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. Furthermore, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

The presence of feral pigs in the area is an existing condition that is part of the baseline for the Project. Using this baseline, Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, analyzes the impact of the Project related to biological resources as required by CEQA. As discussed on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR, the Project would not directly or indirectly worsen the presence of feral pigs. No changes to the Draft EIR are required.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for region-wide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the U.S. Department of Agriculture's, Animal and Plant Health Inspection Service, Wildlife Services (USDA APHIS WS) by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment P28-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* and Response to Comment P28-1 for a discussion of Project direct and indirect impacts related to feral pig populations, including discussion of baseline conditions used in the EIR analysis. No changes to the Draft EIR are required.

Response to Comment P28-3

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* and Response to Comment P28-1 for a discussion of Project direct and indirect impacts related to feral pig populations, including discussion of feral pig movement into the Project area, population trends, and regional and statewide feral pig issues. No changes to the Draft EIR are required.

Response to Comment P28-4

Valley Water acknowledges that feral pigs have damaged the turf in the lower meadow area; however, the damage is superficial and does not preclude the use of the lower meadow as a temporary wildfire refuge area or for other emergency response needs. See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations, including why mitigation for existing conditions is not required under CEQA. No changes to the Draft EIR are required.

Comment Letter P29- Holland, Sharon

Letter P29

From: [Sharon Holland](#)
To: [ADSRPcomments](#)
Subject: Rosendin Park - Please Keep it Open
Date: Saturday, October 28, 2023 4:26:35 PM

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Greetings.

I have lived in Holiday Lake Estates for 30 years (so hard to believe). During that time I have taken innumerable hikes in Rosendin Park. It has been a time for exercise, reflection, renewal. We have earnestly monitored the water level of the pond over the years and the seasons, enjoying the frogs and the ducks. Each Thanksgiving, weather permitting, we take a family hike before the turkey dinner, with the kids and grandkids who come down from San Jose and Oakland. They have often taken their family Christmas Card picture on that day. It is part of our Thanksgiving tradition.

I urge you to avoid a complete closure of the park during the reconstruction of the dam. I trust you can find a way to fence off any sensitive areas, leaving most of the park available for residents and citizens to enjoy. I have always found the visitors to be a respectable group - I do not think you would have people traipsing through closed off areas. And I understand there may need to be some days or weeks when the whole park needs to be closed. Eight years is just too long to go without enjoying Rosendin Park - should there be a complete closure, by the time it is reopened I may be too old to enjoy it.

Please consider the residents, citizens, taxpayers when making your decisions.

Sincerely,
Sharon Holland
3261 Quail Lane
Morgan Hill CA 95037
sharonholl2001@yahoo.com
408-778-6967

P29-1

Responses to Comment Letter P29

Response to Comment P29-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P30

Response to Comment P30-1

The commenter does not specify what they find inadequate about the analysis of the Draft EIR for these topic areas. Potential impacts associated with Project construction related to visual impacts are discussed in Section 3.1, *Aesthetics*. Potential impacts associated with Project construction related to dust are discussed in Section 3.3, *Air Quality*. Potential impacts associated with Project construction related to noise are discussed in Section 3.16, *Noise*. Potential Project construction impacts related to roadway vehicles are discussed in Section 3.19, *Transportation*.

Response to Comment P30-2

Valley Water disagrees with the assertion that fish and wildlife are “controlling” the Project and that the seismic retrofit has been “turned into” a fisheries habitat restoration project. The purpose of the Project is to operate Anderson Dam and Reservoir to maximize water supply, groundwater recharge, and related incidental benefits while avoiding and minimizing environmental impacts (Section 2.3.1 of the Final EIR). The objectives of the Project, consistent with FERC and DSOD dam safety requirements, are to:

1. Seismically retrofit and maintain the dam so that Valley Water may continue to operate it at capacity. This objective would be achieved by:
 - Replacing the existing dam to withstand the MCEs on the Calaveras and Coyote Creek Range Front Faults
 - Replacing the existing spillway to meet FERC and DSOD safety requirements related to the safe passage of a PMF
 - Replacing the outlet works to meet current DSOD outlet works requirements and accommodate fault offset
2. Improve cost efficiency of dam operations by decommissioning the hydroelectric facility
3. Avoid and minimize environmental effects of construction and operations.

Project benefits include providing in-stream flows consistent with regulatory requirements that Valley Water must meet. In addition, in 2019 Valley Water decided to include the Coyote Creek Watershed Phase 1 flow and non-flow measures in the Project for efficiency and are therefore evaluating them in the Project EIR.

Response to Comment P30-3

Residences are considered sensitive receptors when it comes to noise and nighttime light exposure. Section 3.16, *Noise and Vibration*, on pages 3.16-31 through 3.16-77 of the Final EIR addresses Project construction noise impacts. Specifically, the EIR found that construction noise would be significant and, therefore, Mitigation Measure NOI-1 (Implement Construction Noise Reduction Measures) and NOI-2 (Implement Seismic Retrofit Construction Noise Reduction Measures) would be required. Implementation of Mitigation Measure NOI-1 will require Valley Water to implement a Construction Management Plan, which would require prior notice of construction activities to nearby sensitive receptors, proper maintenance of all construction

equipment, equipping all construction equipment with mufflers and air intake silencers, locating staging and delivery areas as far from sensitive receptors (e.g., residences) as is feasible, enclosing stationary noise sources in temporary sheds, restricting the use of bells, whistles, alarms, and horns, and posting signs at construction area entrances to reinforce the prohibition of unnecessary idling. Mitigation Measure NOI-2 is specific to Seismic Retrofit construction and will require the installation of temporary noise barriers at Staging Area 1 (as feasible), limiting of construction activity within close distances of residences, posting of signs with a noise complaint phone number, and construction noise monitoring during nighttime construction.

Impacts associated with nighttime construction lighting during Seismic Retrofit construction are discussed in Section 3.1, *Aesthetics*, starting on page 3.1-61. The analysis of light and glare under Impact AES-3 was revised in the Partially Recirculated Draft EIR based on the changes to the Seismic Retrofit construction hours, which includes an increased number of Seismic Retrofit construction activities and construction days involving early morning, evening, and nighttime construction. As discussed in the Draft and Partially Recirculated Draft EIR, limited construction lighting may be visible from nearby public roads, which would be a substantial new source of nighttime lighting. Implementation of Mitigation Measure AES-3 (Construction Lighting) would reduce this impact to a less-than-significant level by requiring construction contractors to shield construction lighting at night.

Mitigation Measure NOI-2 requires that construction activity at Stockpile Areas K North and South be limited to the daytime (7:00 a.m. to 5:00 p.m.), as feasible.

The commenter stated that City of Morgan Hill and Santa Clara County construction restrictions need to be followed in areas adjacent to residential neighborhoods.

As stated on page 3.16-29 of the Final EIR, Valley Water is exempt from compliance with the local noise ordinances under either Government Code Secs. 53091(d) or (e) (which state that county or city building and zoning ordinances do not apply to the construction of facilities for water storage or transmission), or for non-building and zoning ordinances, under *Hall v. Taft* (1956) 47 Cal. 2d 177,189 (which holds that water districts are exempt from municipal police power regulation). However, Valley Water considers voluntary compliance with local regulations during project planning and implementation to reduce construction noise to the degree feasible. Nevertheless, it is not feasible to restrict nighttime construction work to stockpile transport north of the dam nor is it feasible to restrict construction hours to those in the City of Morgan Hill and Santa Clara County Municipal Codes to meet the objectives of the Project and to stay within the proposed construction duration of 7 years for the Seismic Retrofit component. Restricting construction to hours in the municipal codes would prevent the completion of critical earthwork required during the dry season for dam embankment construction. Each year, the dam must reach a specific interim elevation to construct a temporary spillway for safe water flow during the wet season. Failure to meet this requirement, which would occur with more restricted work hours, would increase the risk of dam overtopping, threatening the downstream population and presenting an unacceptable public safety risk. Additional years of dam embankment construction to reduce the volume of earthwork required for each dry season in order to limit nighttime work and work on weekends would result in a substantially shorter interim dam and reservoir, which greatly increases the likelihood of overtopping and risk to the downstream population, which again is not acceptable from a public safety perspective.

After circulation of the Draft EIR, Valley Water met with the Project Board of Consultants, which reviews the Project and makes recommendations to FERC, to discuss updated design plans and

construction sequencing. In response to that meeting and Board of Consultants recommendations, Valley Water proposed in the Partially Recirculated Draft EIR to make certain construction changes such as extending work hours, adding some weekend days, and beginning work on certain Project components sooner. These proposed changes would allow Valley Water to construct planned Project components within the planned construction timeline before the wet season each year to improve its ability to complete the Project on schedule. These Project changes necessitated revisions to certain impact analyses in the aesthetics, air quality, GHG emissions, and noise and vibration sections of the Draft EIR, and the Partially Recirculated Draft EIR determined there would be no change to the impact determinations related to these resources from those disclosed in the Draft EIR.

Response to Comment P30-4

As discussed under Response to Comment P30-3, Section 3.16, *Noise and Vibration*, addressed Project construction noise impacts and concluded that construction noise would be significant and, thus, mitigation will be required to minimize Project construction noise.

The commenter suggested that the boat ramp parking lot (Staging Area 6) could be used for daytime work as a worker parking area and that it should not be considered as a laydown area or equipment staging area. It is not feasible to limit Staging Area 6 to only daytime parking to meet the objectives of the Project (see Response to Comment P30-3, which provides information regarding the infeasibility of limiting construction hours); however, delivery of materials at Staging Area 6 would be limited to daytime hours only.

Regarding potential damage to roads in within Holiday Lake Estates, while not considered an impact under CEQA requiring evaluation in the EIR, Valley Water will engage with the Holiday Estates Management Association (HEMA) prior to Project construction to notify HEMA of plans for temporary use of Holiday Lake Estates roads, and to negotiate an agreement with HEMA for equitable payment for use of HEMA's private roads during Project construction.

Response to Comment P30-5

As discussed under Response to Comments P30-3 and P30-4, Section 3.16, *Noise and Vibration*, addressed Project construction noise impacts, including those related to the Holiday Lake Estates neighborhood. Specifically, the Final EIR on page 3.16-41 concluded that construction noise would be significant and, thus, mitigation would be required to minimize Project construction noise. Fugitive dust impacts from Project construction were addressed in Section 3.3, *Air Quality*. Specifically, the EIR describes Valley Water BMP AQ-1 (Use Dust Control Measures) for fugitive dust control. In addition, all projects must comply with the BAAQMD Rule 6-1, which limits fugitive particulate emissions, and Rule 6-6, which limits track-out of solid materials onto paved public roads outside the boundaries of large construction sites. Furthermore, the Draft EIR found that even with BMP AQ-1, fugitive dust impacts would be significant and, therefore, Mitigation Measure AQ-3 (Implement BAAQMD Enhanced Construction BMPs) would be required, which would include planting vegetative ground cover or using a soil stabilizer, and minimizing the simultaneous occurrence of excavation, grading, and ground-disturbing activities on the same area at any one time, whenever feasible.

Response to Comment P30-6

Soil stability and landslide impacts associated with stockpiles are discussed in Draft EIR Section 3.8, *Geology and Soils*. As discussed therein (starting on page 3.8-58), construction activities and reservoir drawdowns could increase the risk of landslides. However, much of the reservoir drawdown was achieved as part of the FOCPP and is therefore considered as part of the Existing Conditions Baseline. Construction of all facilities associated with the Seismic Retrofit, which includes stockpile areas, would be conducted in accordance with all relevant provisions of the current FERC and DSOD standards that reduce risks associated with geologic and slope stability. Further, the stockpiles themselves provide additional stability to the adjacent hillsides. The Project would also include implementation of Mitigation Measure GEO-1 (Repair Landslides Caused by Construction Activities) and impacts would be less than significant with mitigation.

Impacts related to views associated with Project construction stockpiles are discussed in Section 3.1, *Aesthetics*. As discussed therein (starting on page 3.1-46 of the Final EIR), stockpile areas and the use and construction of access roads would be largely unseen from public roadways throughout the construction of the Project. Additionally, as stated on page 3.1-5, the Existing Conditions Baseline for aesthetics includes the presence of large construction equipment, stockpiled materials, and construction activities associated with the FOCPP. Furthermore, potential impacts to private views from residences are not considered a significant impact under CEQA. As concluded in the EIR, Project construction-related stockpiles would not substantially alter views compared to existing conditions.

Response to Comment P30-7

Soil stability and access roads are discussed in Section 3.8, *Geology and Soils*, starting on page 3.8-68 of the Final EIR. As discussed therein, landslides due to reservoir drawdown are part of the existing conditions that have occurred before this Project and are expected to continue to occur after completion of Project construction activities in the same manner as they do now. Construction of all facilities associated with the Seismic Retrofit, which includes access roads (which were located to avoid known landslides), would be conducted in accordance with all relevant provisions of the current FERC and DSOD standards that reduce risks associated with geologic and slope stability. Valley Water would continue to monitor slope stability and landslide movement through the use of installed survey monuments and satellite reflectors within the reservoir as part of its normal operations. Furthermore, the Project would include Mitigation Measure GEO-1 (Repair Landslides Caused by Construction Activities) and impacts would be less than significant with mitigation.

Response to Comment P30-8

Aesthetic impacts associated with construction stockpiles are discussed in Section 3.1, *Aesthetics*. As discussed therein (starting on page 3.1-46 of the Final EIR), stockpile areas and the use and construction of access roads would be largely unseen from public roadways throughout the construction of the Project. While this also applies to the Reservoir Disposal Area, the following text has been included on page 3.1-46 of the Final EIR:

Stockpile areas, and the use and construction of access roads, and the Reservoir Disposal Area would be largely unseen from public roadways throughout the construction of the Project.

Additionally, as stated on page 3.1-5, the Existing Conditions Baseline for visual quality includes the presence of large construction equipment, stockpiled materials, and construction activities associated with the FOC. Therefore, stockpiles would not substantially alter visual quality compared to existing conditions, as concluded in the EIR.

Response to Comment P30-9

Regarding the purpose and objectives of the Project, and its relationship to FAHCE, please see Response to Comment P30-2.

Response to Comment P30-10

As described in Final EIR Section 1.2, *Valley Water Mission*, on pages 1-3 and 1-4, Valley Water is responsible for operation of Anderson Dam and water releases from Anderson Reservoir. Reservoir releases would be made consistent with the FAHCE requirements, which are intended to improve spawning and rearing habitat and fish passage for migration within the Coyote Creek Watershed, as described in Section 1.3.4, *Fish and Aquatic Habitat Collaborate Effort*, on page 1-9. As described in Table 1-1 on page 1-11, FAHCE aims to identify actions for Valley Water to balance their water supply operations with the aquatic needs in Coyote Creek. As described in Section 3.13, *Water Supply*, on page 3.13-20, although the FAHCE operating rules would allow for greater releases for fish passage and habitat enhancement, water released using pulse flows is subject to storage criteria that would be protective of dry season water storage. This would limit any adverse effects on water supply that could be created by releasing additional water for fish passage purposes. Because the information requested by the commenter is contained in the Draft EIR, no revisions to the EIR are required.

Response to Comment P30-11

The Sediment Augmentation Program was revised in the Final EIR. It now includes an initial placement of at least 500 cubic yards of sediment, with ongoing monitoring and replenishment every five years or as needed, in coordination with the TWG. This is compared to the original plan, which involved removing and stockpiling 55,000 cubic yards of sediment over a 15-year period. Consequently, Section 2.6.3.2, *Site Mobilization and Preparation*, cited by the commenter, has been deleted, and the noise and dust impacts associated with sediment hauling have been substantially minimized. Should the scope of the Sediment Augmentation Program change relative to what is described in the Final EIR, Valley Water would perform additional CEQA review as necessary. The BMPs and mitigation measures applied to the Sediment Augmentation Program described in the Draft EIR would similarly apply to the revised program.

Fugitive dust impacts from Project construction were addressed in Section 3.3, *Air Quality*. Specifically, page 3.3-29 of the Final EIR describes Valley Water BMP AQ-1 (Use Dust Control Measures) for fugitive dust control. In addition, all projects must comply with the BAAQMD Rule 6-1, which limits fugitive particulate emissions, and Rule 6-6, which limits track-out of solid materials onto paved public roads outside the boundaries of large construction sites. Furthermore, on page 3.3-42, the EIR concluded that, even with implementation of BMP AQ-1, fugitive dust impacts would be significant and, thus, Mitigation Measure AQ-3 (Implement BAAQMD Enhanced Construction BMPs) will be required, which would include planting vegetative ground cover or using a soil stabilizer, and minimizing the simultaneous occurrence of excavation, grading, and ground-disturbing activities in the same area at any one time.

As discussed under Response to Comment P30-3, Section 3.16, *Noise and Vibration*, addressed Project construction-related noise impacts and concluded that construction noise would be significant and, thus, mitigation would be required to minimize project construction noise.

It is not feasible to limit Staging Area 6 to only light-duty vehicles, since construction equipment and vehicles would need to be mobilized through the boat ramp entrance. However, this activity would be limited to the in-reservoir construction season.

Regarding potential damage to roads within Holiday Lake Estates, while not considered an impact under CEQA requiring evaluation in the EIR, Valley Water will engage with HEMA prior to Project construction to notify HEMA of plans for temporary use of Holiday Lake Estates roads, and to negotiate an agreement with HEMA for equitable payment for use of HEMA's private roads during Project construction.

Response to Comment P30-12

Regarding the purpose and objectives of the Project, please see response to comment P30-2. As explained in Response to Comment P30-2, Valley Water has decided to include the FAHCE flow and non-flow measures as part of the Project for efficiency and therefore evaluate them in the EIR. The EIR water supply impact analysis (Section 3.13.4) demonstrates that the FAHCE flows, as well as all other Project components, would not have a significant water supply impact.

The magnitude and timing of flow releases from Anderson Dam (including both native water and imported water) are dictated by the requirements to provide water for primarily urban water users; and provides environmental benefit to federally listed steelhead and native fish. Flow releases are designed to percolate into groundwater downstream of the dam, and becoming available for groundwater pumping, when it is most needed.

Coyote Creek currently provides, and has provided in the past, habitat for native fish species, including special status fish species. Construction of dams impacts physical processes that can impact native fish habitats, which is considered through federal and state environmental compliance processes.

Response to Comment P30-13

The change to municipal use is merely to conform Valley Water's Coyote Creek water rights to current State Water Resources Control Board beneficial use designations (23 Cal Code Regs § 663). The definition of municipal use references "use incidental thereto for any beneficial purpose", which includes incidental irrigation and non-consumptive recreational uses. Nonetheless, to make clear Valley Water has no intention of terminating the use of Coyote Creek waters diverted into Anderson Reservoir for irrigation and recreational purposes, Valley Water will amend its Coyote Creek water rights petitions to not seek the removal of irrigation and recreational uses from its water right licenses as part of the change petition process.

Changing Valley Water's Coyote Creek water rights to include municipal and wildlife preservation and enhancement uses will not result in any environmental impacts not already disclosed in the Final EIR. This change is to balance the use of local water for water supply and protection of fisheries in accordance with the FAHCE Settlement Agreement, which was entered into with federal and state natural resource agencies to resolve a water rights complaint filed against Valley Water in 1996.

Response to Comment P30-14

See Response P30-13

Response to Comment P30-15

The Coyote Creek Chillers Project will be funded by Valley Water's Water Utility Division specifically through Operations and Maintenance Unit. The cost of operations will vary depending on water temperatures and flow rates in Coyote Creek. The facility will be constructed and operated in compliance with the Endangered Species Act. Portions of Coyote Creek downstream of Anderson Dam are considered under the Endangered Species Act as Critical Habitat for Central California Coast (CCC) Steelhead. Due to this designation, actions must be taken to maintain conditions to support this species. Prior to FOCP, releases from Anderson Dam provided adequate temperatures for the species to persist. During construction, these flows will not be available. Imported water used for ground water recharge can be warmer than what CCC steelhead need to thrive. By operating chillers, the habitat downstream of the dam can be maintained to support the species, thus lessening impacts and need for other more costly mitigation.

Response to Comment P30-16

As stated in Section 3.1, *Aesthetics*, on page 3.1-5 of the Final EIR, the Existing Conditions Baseline for aesthetics includes the presence of large construction equipment, stockpiled materials, and construction activities associated with the separate FOCP. As such, the EIR concluded that stockpiles and construction staging would not substantially alter the area's visual character and, thus, not result in a significant aesthetics impact compared to existing conditions.

Response to Comment P30-17

Impacts related to nighttime construction lighting during Project construction are discussed in Section 3.1, *Aesthetics*, starting on page 3.1-61 of the Final EIR. The analysis of light and glare under Impact AES-3 was revised in the Partially Recirculated Draft EIR based on the changes to the Seismic Retrofit construction hours, which includes an increased number of Seismic Retrofit construction activities and construction days involving early morning, evening, and nighttime construction. As discussed in the Draft and Partially Recirculated Draft EIR, limited construction lighting may be visible from nearby public roads, which would be a substantial new source of nighttime lighting. However, implementation of Mitigation Measure AES-3 (Construction Lighting), as described on pages 3.1-62 and 3.1-63, would reduce this impact to a less-than-significant level by requiring construction contractors to shield construction nighttime lighting.

Response to Comment P30-18

See Response to Comment P30-7. Slope stability and potential impacts associated with landslides are discussed in Section 3.8, *Geology and Soils*, starting on page 3.8-65 of the Final EIR. As discussed therein, landslides due to reservoir drawdown are part of the existing conditions that have occurred before this Project and are expected to continue to occur after completion of Project construction activities in the same manner as they do now. The Boat Marina Landslide and Hoot Owl Way Landslides are located north of the Holiday Lake Estates neighborhood. Valley Water would continue to monitor slope stability and landslide movement

through the use of installed survey monuments and satellite reflectors within the reservoir as part of its normal operations. Construction of all facilities associated with the Seismic Retrofit, which includes access roads, would be conducted in accordance with all relevant provisions of the current FERC and DSOD standards that reduce risks associated with geologic and slope stability. The in-reservoir roads would be constructed by the contractor in accordance with the Stormwater BMPs, based on the CASQA Construction Handbook. These BMPs would minimize the potential for erosion that may be caused by the construction of these roadways. Furthermore, the Project would include Mitigation Measure GEO-1 (Repair Landslides Caused by Construction Activities), which would require Valley Water to monitor active landslide areas during the Seismic Retrofit Construction and initial filling of the reservoir. If landslide movement is determined to have been caused by the Seismic Retrofit Construction activities, including construction of access roads and stockpiling, and found to impact existing improvements, then Valley Water would implement ground stabilization methods to prevent further movement. Therefore, additional study of potential landslides caused by access roads and stockpiling is not necessary, and no changes to the Draft EIR are proposed.

Comment Letter P31- Kirchoff, Jenny & Vince

Letter P31

From: jvkirchoff@verizon.net
To: [ADSRPcomments](#)
Subject: Impact of Anderson Retrofit on Rosendin Park
Date: Tuesday, October 31, 2023 6:18:42 PM

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Hello,

I am writing in response to the proposal to close Rosendin Park during the construction of the dam.

Closing the entire park for that period of time seems completely unnecessary. The trails on the north side of the park (away from the dam) are well used by the community for running, hiking and mountain biking. It's a wonderful place for people of all ages to see birds, frogs and other animals around the seasonal pond.

The barriers that are currently in place to restrict access to the boat ramp are minimal. I suggest reinforcing them to better block the entrance to the dam area.

Our community will be impacted for many years with the construction of this dam. Please don't close a park that adds so much to our community.

Regards,
Jenny and Vince Kirchoff
17210 Copper Hill Dr
Morgan Hill, CA

P31-1

P31-2

Responses to Comment Letter P31

Response to Comment P31-1

See *Master Response 4 – Impacts of FOC and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Response to Comment P31-2

See *Master Response 4 – Impacts of FOC and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Due to these changes, which would temporarily close the park primarily during blasting associated with the Project, Valley Water has determined that reinforcing the barriers at the dam would not be necessary; however, the gate and fencing (at the property boundary between Anderson Lake County Park and the Rosendin Park Area) that is currently in place as part of FOC would remain under the Project to restrict access to the boat ramp through the Rosendin Park Area.

Responses to Comment Letter P32

Response to Comment P32-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Comment Letter P33- Koss, Teri (2)

Letter P33

From: [Teri Koss](#)
To: [ADSRPcomments](#)
Subject: Anderson
Date: Monday, October 30, 2023 5:39:44 AM

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Please do not close Rosendin Park. Our family hikes the trails everyday of the year. We are grateful to have this amazing park. I cannot imagine not being able to visit the park. We understand that there are safety concerns. Please consider only closing the trails on "blasting days". We have already lost the lake. We are running out of places to hike and enjoy nature.

Robert and Teresa Koss and Family
17640 Raccoon Ct.
Morgan Hill, CA 95037
408-930-0830

--

[Teri Koss](#)
Design Studio
A.S.I.D. Allied
408-930-0830
www.designstudioco.com

P33-1

Responses to Comment Letter P33

Response to Comment P33-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P34

Response to Comment P34-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P35

Response to Comment P35-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Comment Letter P36- Krusemark, Jay (2)

Responses to Comment Letter P36

Response to Comment P36-1

See Master Response 5 – *Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Furthermore, seasonal variability in abundance of feral pigs in Holiday Lake Estates and Jackson Oaks may result from a variety of factors, including water levels in the lake and variability in the locations of high-quality foraging areas.

Responses to Comment Letter P37

Response to Comment P37-1

See *Master Response 4 – Impacts of FOC and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Due to these changes, Valley Water has determined that reinforcing the barriers at the dam would not be necessary; however, the gate and fencing (at the property boundary between Anderson Lake County Park and the Rosendin Park Area) that is currently in place as part of FOC would remain under the Project to restrict access to the boat ramp through the Rosendin Park Area.

Responses to Comment Letter P38

Response to Comment P38-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Comment Letter P39- Longbons, Robert & Phyllis

Letter P39

Comment Card

ANDERSON DAM SEISMIC RETROFIT PROJECT

Public Meeting: October 4, 2023



Valley Water

Please provide your contact information below:

Name Robert & Phyllis Longbons

Phone 408-779-6310

Email PhyllisLongbons@charter.net

Address 17545 Manzanita Dr
Morgan Hill, CA 95037

Attendees may fill out comment cards and leave them at the meeting site or mail them in prior to the end of the review period, on Nov. 1, 2023. You can also submit your comments by emailing ADSRPcomments@valleywater.org or directly mailing your written comments to:

Valley Water
Attention: Tiffany Chao
5750 Almaden Expressway
San José, CA. 95118-3686

valleywater.org

Clean Water • Healthy Environment • Flood Protection

Please share your comments below.

The Draft Environmental Impact Report assesses potential environmental impacts resulting from construction and operation of the Anderson Dam Seismic Retrofit Project and suggests ways to minimize significant impacts.

P39-1

Please do not close Rosendin Park.
The one trail, which looks down on the
back face of the dam, could easily be closed
for any safety concerns. What would be the
reason to close the entire park? Could
there also just be temporary closures, days
or weeks, opposed to "years"

Responses to Comment Letter P39

Response to Comment P39-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P40

Response to Comment P40-1

Section 3.16, *Noise and Vibration*, on pages 3.16-31 through 3.16-77 of the Final EIR addresses Project construction noise impacts. Specifically, the EIR concluded that construction noise would be significant and, thus, Mitigation Measures NOI-1 (Implement Construction Noise Reduction Measures) and NOI-2 (Implement Seismic Retrofit Construction Noise Reduction Measures) would be required. Implementation of Mitigation Measure NOI-1 requires Valley Water to implement a Construction Management Plan, which would require prior notice of construction activities to nearby sensitive receptors, proper maintenance of all construction equipment, equipping all construction equipment with mufflers and air intake silencers, locating staging and delivery areas as far from sensitive receptors (e.g., residences) as is feasible, enclosing stationary noise sources in temporary sheds, restricting the use of bells, whistles, alarms, and horns, and posting signs at construction area entrances to reinforce the prohibition of unnecessary idling. Mitigation Measure NOI-2 is specific to Seismic Retrofit construction and will require the installation of a temporary noise barriers at Staging Area 1 (as feasible), limiting of construction activity within close distances of residences, posting of signs with a noise complaint phone number, and construction noise monitoring during nighttime construction. To reduce noise impacts along the Cochrane Road corridor, Mitigation Measure NOI-2 requires temporary reduction of worker vehicle and truck speed limits along Cochrane Road between East Main Avenue and Half Road by 5 mph below the speed limit and reduced worker vehicle and truck speeds along the section of Cochrane Road closed to through traffic from the currently posted speed limit of 45 mph to 35 mph.

After circulation of the Draft EIR, Valley Water met with the Project Board of Consultants, which reviews the Project and makes recommendations to FERC, to discuss updated design plans and construction sequencing. In response to that meeting and Board of Consultants recommendations, Valley Water proposed in the Partially Recirculated Draft EIR to make certain construction changes such as extending work hours, adding some weekend days, and beginning work on certain Project components sooner. These proposed changes would allow Valley Water to construct planned Project components within the planned construction timeline before the wet season each year to improve its ability to complete the Project on schedule.

Response to Comment P40-2

It would not be feasible to limit Project construction truck activity to the suggested hours and meet the objectives of the Project within the proposed construction duration of 7 years for the Project's Seismic Retrofit component. During the five years of dam embankment construction as the existing dam is excavated and the replacement dam is constructed, the existing spillway would not be available to safely pass large storms, which coupled with the reduced capacity of interim reservoirs increases the likelihood of overtopping and risk to the downstream population. Prior to each wet season, dam embankment construction is stopped in order to construct a temporary spillway on each interim dam to safely pass additional flows and reduce the risk to the downstream population to the extent practicable. Not completing an interim dam – either from stopping dam embankment construction prior to reaching the design crest elevation for an interim dam or from not constructing the temporary spillway on an interim dam – further increases the likelihood of overtopping and risk to the downstream population, which

is not acceptable from a public safety perspective. Additional years of dam embankment construction to reduce the volume of earthwork required for each dry season in order to limit nighttime work and work on weekends would result in a substantially shorter interim dam and reservoir, which greatly increases the likelihood of overtopping and risk to the downstream population, which again is not acceptable from a public safety perspective.

After circulation of the Draft EIR, Valley Water met with the Project Board of Consultants, which reviews the Project and makes recommendations to FERC, to discuss updated design plans and construction sequencing. In response to that meeting and Board of Consultants recommendations, Valley Water proposed in the Partially Recirculated Draft EIR to make certain construction changes such as extending work hours, adding some weekend days, and beginning work on certain Project components sooner. These proposed changes would allow Valley Water to construct planned Project components within the planned construction timeline before the wet season each year to improve its ability to complete the Project on schedule. As described in Section 2.5.1.2, *Work Hours and Crew Size*, certain activities would be restricted to daytime hours only, such as blasting at the BHBA (8:00 a.m. to 5:00 p.m.) and delivery of materials (7:00 a.m. to 8:00 p.m.). However, limiting all truck activity to specific windows would be infeasible to meet the Project schedule and objectives.

Response to Comment P40-3

The commenter is correct that there will be “thousands of truck runs” as construction of the Seismic Retrofit component would occur over approximately 7 years. Potential impacts to Cochrane Road and US 101 could occur during Project construction and are evaluated in Section 3.19, *Transportation*. This includes Impact TR-1 (Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities); Impact TR-2 (Conflict with or be inconsistent with CEQA Guidelines Section 15064.3, 7 subdivision (b)); Impact TR-3 (Substantially increase hazards due to a geometric design feature or incompatible use); and Impact TR-4 (Inadequate emergency access). Safety and emergency access on local roads and freeways, including Cochrane and US 101, are addressed in Section 3.15 *Land Use*, on page 3.15-31 of the Final EIR.

Potential impacts to Cochrane Road and US 101 are not expected to occur during Project operation. As stated in Section 3.19, *Transportation*, on page 3.19-21 of the Final EIR, “trips generated by the Project would primarily occur during construction and long-term trips from operation and maintenance would be minimal.”

As such, overall Project impacts related to roadway circulation, safety, and emergency access, including specific to Cochrane Road and US 101, are adequately and fully addressed in the EIR.

Response to Comment P40-4

As stated in Section 3.17, *Public Services*, on pages 3.17-21 and 3.17-22 of the Final EIR, Project construction truck safety would be addressed through preparation and implementation of a Traffic Management Plan (TMP), per Mitigation Measure PS-1 (Prepare and Implement Traffic Management Plan). Mitigation Measure PS-1 requires Valley Water and its contractors to prepare a TMP to minimize traffic delays and safety hazards that may result from lane restrictions or closures in the work zone. As such, Project construction impacts related to construction truck safety are addressed in the EIR.

Response to Comment P40-5

Impacts associated with nighttime construction lighting during Project construction are discussed in Section 3.1, *Aesthetics*, starting on page 3.1-61 of the Final EIR. As discussed therein, limited construction lighting may be visible from nearby public roads and would be a substantial new source of nighttime lighting. However, as described in the Draft EIR on page 3.1-58, implementation of Mitigation Measure AES-3 (Construction Lighting), would reduce this impact to a less-than-significant level by requiring construction contractors to shield construction lighting at night.

Response to Comment P40-6

Acorn woodpeckers are discussed in the Final EIR (pages 3.5-21 and 3.5-23) as using the oak woodlands that would be impacted by the Project, and black-tailed deer are discussed in the Final EIR (page 3.5-19) as using grasslands and other habitats that would be impacted. Thus, the EIR's analysis of impacts on biological resources considered both of those species.

Impacts to trees, including oaks, are assessed in the Final EIR in Impact AES-2 (starting on page 3.1-42). As stated on page 3.1-59, the Project incorporates Valley Water BMPs and VHP AMMs that would include replanting some project areas with native species similar in size and type to those being removed, and Mitigation Measure AES-1 would require native trees of similar size and type to be planted in the areas where removal of mature, healthy native trees occurs and causes significant impacts on scenic resources. As a result, many of the trees to be removed will be replaced. Project compliance with the VHP will include payment of VHP impact fees, which contribute to the VHP's conservation program that protects, enhances, and manages a wide variety of woodlands, forests, and other land cover types, many of which include oaks that would support acorn woodpecker. Thus, with VHP compliance and implementation of BMPs, AMMs, and Mitigation Measure AES-1, Project impacts on trees (including oaks) would be less than significant.

Response to Comment P40-7

Fugitive dust impacts associated with Project construction are addressed in Section 3.3, *Air Quality*. Specifically, page 3.3-29 of the Final EIR describes that BMPs for fugitive dust control would be implemented through Valley Water BMP AQ-1 (Use Dust Control Measures). In addition, all projects must comply with the BAAQMD Rule 6-1, which limits fugitive particulate emissions, and Rule 6-6, which limits track-out of solid materials onto paved public roads outside the boundaries of large construction sites. Furthermore, the Final EIR on page 3.3-42 concludes that, even with implementation of BMP AQ-1, fugitive dust impacts would be significant and, thus, Mitigation Measure AQ-3 (Implement BAAQMD Enhanced Construction BMPs) will be required. Mitigation Measure AQ-3 includes planting vegetative ground cover or using a soil stabilizer and minimizing the simultaneous occurrence of excavation, grading, and ground-disturbing activities in the same area at any one time, whenever feasible.

Responses to Comment Letter P41

Response to Comment P41-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P42

Response to Comment P42-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Response to Comment P42-2

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P43

Response to Comment P43-1

A recording of the Draft EIR public meeting held on October 4, 2023 can be found at the following website link: https://www.youtube.com/watch?v=b_4SVYOclBA.

Responses to Comment Letter P44

Response to Comment P44-1

Blasting procedures and construction timeline are discussed in detail in Chapter 2, *Project Description*. Construction phases, including blasting procedures and construction schedule, are based on engineering best judgment by Valley Water. Conventional means of excavation (e.g., dozers) would be used where conditions permit (i.e., in areas of softer rock). Furthermore, conventional excavation methods are more efficient and therefore would be prioritized over blasting by the contractor. The only other alternative to blasting in hard rock areas would involve use of large hydraulic hammers, which are infeasible given they would substantially increase the duration of Project construction and are anticipated to result in greater noise and air quality impacts. No other feasible alternatives to blasting exist in areas with hard rock that could still result in achievement of the Project objectives.

Responses to Comment Letter P45

Response to Comment P45-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

There would be no trails in Rosendin Park turned into roadways. While several trails will be temporarily closed during Project construction, all trails would reopen following Project completion.

Response to Comment P45-2

As of September 2024, no work has been performed in Holiday Lake Estates as part of FOCP, nor has the FOCP site been accessed through Holiday Lake Estates. The FOCP Contractor accesses the FOCP site through Cochrane Road. Given this activity is not associated with the Project, no further response is required.

Regarding use of Holiday Drive by construction vehicles, as described in Table 2-4 on pages 2-46 and 2-47 of the Final EIR, Staging Area 6 would be the Holiday Lake Estates Boat Ramp Parking Lot, which would be accessed from Holiday Drive. Table 2-14 on pages 2-92 and 2-93 also discloses that during construction Years 2 to 10, materials would be harvested, sorted, and washed, then stored at Staging Area 6. Valley Water will engage with HEMA prior to Project construction to notify HEMA of plans for temporary use of Holiday Lake Estates roads, and to negotiate an agreement with HEMA for equitable payment for use of HEMA's private roads during Project construction.

Responses to Comment Letter P46

Response to Comment P46-1

The Draft EIR public review and comment period occurred for 69 days from September 1, 2023, to November 8, 2023. The public review and comment period was extended from November 1 to November 8, 2023, pursuant to the Revised Notice of Availability.

*Santa Clara County Community Wildfire Protection Plan
Annex 11 – City of Morgan Hill*



Office of the Fire Marshal
17575 Peak Ave
Morgan Hill, CA 95037-4128
Phone: (408) 778-6480 Fax: (408) 779-7236
www.morganhill.ca.gov

FIREWISE COMMUNITIES/USA[®] RECOGNITION PROGRAM COMMUNITY ASSESSMENT
PREPARED FOR THE COMMUNITY OF JACKSON OAKS, 07/19/16

1) Introduction

The Firewise Communities/USA program is designed to provide an effective management approach for preserving wildland living aesthetics. The program can be tailored for adoption by any community and/or neighborhood association that is committed to ensuring its citizens maximum protection from wildland fire. The following community assessment is intended as a resource to be used by the Jackson Oaks residents for creating a wildfire safety action plan. The plan developed from the information in this assessment should be implemented in a collaborative manner, and updated and modified as needed.

Morgan Hill City Fire Marshal Dwight Good conducted this community risk assessment with assistance from CAL FIRE Santa Clara Unit Forester Ed Orre, Dr. Robert Sieben, author of *A Homeowner's Guide to Wildfire Prevention*, and Carol Rice, author of *Managing Fire in the Urban Wildland Interface*. Additional assistance was provided by SWCA Environmental Consultants during their work on the Santa Clara County Countywide Community Wildfire Prevention Plan (CWPP).

2) Definition of the Home Ignition Zone –

The Jackson Oaks community (Jackson Oaks) is located in a wildfire environment. Wildfires will happen--exclusion is not a choice. The variables in a fire scenario are when the fire will occur, and where. This assessment addresses the wildfire-related characteristics of Jackson Oaks. It examines the area's exposure to wildfire as it relates to ignition potential. The assessment does not focus on specific homes, but examines the community as a whole.

A house burns because of its interrelationship with everything in its surrounding home ignition zone---the house and its immediate surroundings. To avoid a home ignition, a homeowner must eliminate the wildfire's potential relationship with his/her house. This can be accomplished by interrupting the natural path a fire takes. Changing a fire's path by clearing a home ignition zone is an easy-to-accomplish task that can result in avoiding home loss. To

*Santa Clara County Community Wildfire Protection Plan
Annex 11 – City of Morgan Hill*

5) ASSESSMENT PROCESS

The data-gathering process involved personal observations during driving tours throughout the community, "town hall" type meetings, and the use of predictive modeling software. Assessments were conducted individually by no less than four subject matter experts who then met to discuss their findings.

6) IMPORTANT CONSIDERATIONS

The Firewise Communities/USA program seeks to create a sustainable balance that will allow communities to live safely while maintaining environmental harmony in a WUI setting. Homeowners already balance their decisions about fire protection measures against their desire for certain flammable components on their properties. It is important for them to understand the implications of the choices they are making. These choices directly relate to the ignitability of their home ignition zones during a wildfire.

Jackson Oaks has several properties without adequate defensible space. Flammable ornamental plants (i.e., junipers) are prevalent throughout the development.

P47-3 cont.



Photo 13. Hillside home with inadequate defensible space, bordering open space.

*Santa Clara County Community Wildfire Protection Plan
Annex 11 – City of Morgan Hill*



Photo 18. Disced fireline, heavy brush on both sides.

3. Elderly and indigent populations may be unable to complete necessary fuel reduction work without assistance.

Recommendations:

1. Improve ingress/egress capabilities by establishing fuel breaks along road shoulders.

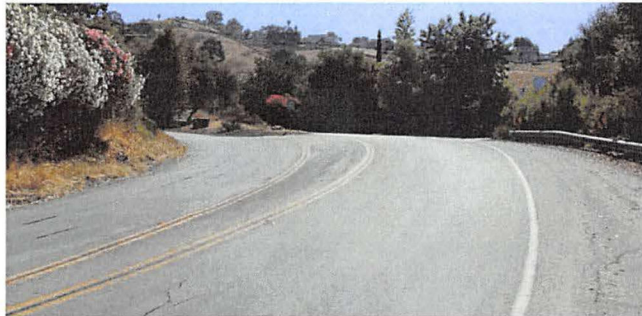


Photo 19. Road shoulders cleared as fuel breaks.

P47-3 cont.



at less than 50 acres with 20 homes destroyed and another 25 damaged. Fire losses will exceed \$30 million.

4) SITE DESCRIPTION –

Holiday Lakes Estates is located just west and south of Anderson Lake - Santa Clara County's largest reservoir – and 3,144 acre Anderson Lake County Park which includes a boat launch, multiple use trails and a historic park site. Holiday Lakes Estates has more than 1.5 miles of lakefront property (Photo 1). Anderson Lake will be drained from 2020 to 2025 during a planned dam seismic retrofit, exposing a box canyon; the effects on fire behavior are expected to be undesirable.



Photo 1. Lakefront aspect of Holiday Lakes Estates, viewed from south.

Holiday Lake Estates is only accessible via one two-lane arterial road (East Dunne Avenue). In the event this road becomes unpassable, safe evacuation and emergency access will be compromised (Photo 2).



Photo 2. Base of E. Dunne Ave. The only access road into Holiday Lakes Estates.



FIREWISE USA™
RESIDENTS REDUCING WILDFIRE RISKS

Several homes have combustible wood roofs (Photo 10) and siding and many have combustible decks and balconies (Photo 11).



Photo 10. Weathered wood shingle roof. Siding is a mix of stucco and plywood.



Photo 11. Elevated wood deck with direct exposure to hillside vegetation.

P47-4
cont.

Responses to Comment Letter P47

Response to Comment P47-1

The two attachments were received and considered by Valley Water. This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment P47-2

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment P47-3

The Firewise Communities/USA Recognition Program Community Assessment prepared for the community of Jackson Oaks was received and considered by Valley Water. This assessment evaluates existing conditions and existing fire risk in the area of the Jackson Oaks neighborhood and does not provide a comment on the analysis of the Draft EIR. No further response is required.

Response to Comment P47-4

The Firewise Communities/USA Recognition Program Community Assessment prepared for Holiday Lake Estates was received and considered by Valley Water. The Project is mentioned on page 5 of the assessment, and this portion of the assessment was mentioned in Comment O4-34. See Response to Comment O4-34 and *Master Response 7 - Impacts of FOCP and ADSRP on Wildfire Risks*. Responses to this comment regarding the “box canyon” effect are provided under *Increased Wildfire Exposure Risk from Project Construction* of Master Response 7. Otherwise, this assessment evaluates existing conditions and existing fire risk in the area of the Holiday Lake Estates and does not provide a comment on the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Comment Letter P48- O’Keefe, Barbara (1)

Responses to Comment Letter P48

Response to Comment P48-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Response to Comment P48-2

See Response to Comment P48-1 and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, for a discussion regarding direct and indirect impacts related to feral pig populations. While the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment P48-3

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs, and the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to safety and hazards.

Response to Comment P48-4

Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. As discussed therein, there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While Project mitigation measures are not required related to feral pigs, for informational purposes, Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for reasons discussed in further detail in *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter P49

Response to Comment P49-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Comment Letter P50- Redd, Kathleen

Letter P50

From: [Kathleen Redd Hendrickson](#)
To: [ADSRPcomments](#)
Subject: Attn: Tiffany Chao, Comments on Draft EIR for Anderson Dam Seismic Retrofit Project
Date: Tuesday, November 7, 2023 8:41:43 PM

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Valley Water
Tiffany Chao, Senior Environmental Planner

Dear Ms. Chao,

Since the draining of Anderson Dam, the feral pig population has invaded neighborhoods in Morgan Hill in numbers not seen in the over 25 years we have been residents.

Extensive damage to property and landscape continues, even for those of us who had our lawns and gardens completely destroyed last year. The pigs are walking across the dry lakebed, and roaming into neighborhoods in Holiday Lakes, Jackson Oaks, and even Jackson Meadows, at the bottom of the hill.

This invasion is costly, dangerous and unacceptable to citizens and taxpayers in Morgan Hill.

1. Please remove the statement from the Draft EIR that states:

"There is no clear evidence that the drawdown of Anderson Reservoir as mandated by DSOD (which started on October 1, 2020, and ended on December 15, 2020) and FERC has resulted in changes to feral pig movement and distribution around Anderson Reservoir."
(page 3.5-30)

2. Please reference the resident damage claim documents in the report. Be aware that only a small portion of the homeowners who have had feral pig damage have made an official claim. The pigs return again and again, and continue to cause significant damage to our properties.

3. Please consider allocating funds to mitigate the risks involved to life and property.

Sincerely,

Kathleen Redd

Jackson Oaks property owner, Morgan Hill

Kathleen Redd Hendrickson
408-981-4123

P50-1

P50-2

P50-3

P50-4

Responses to Comment Letter P50

Response to Comment P50-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, for a discussion regarding direct and indirect impacts related to feral pig populations. While the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment P50-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, for a discussion regarding direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Response to Comment P50-3

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, for a discussion regarding direct and indirect impacts related to feral pig populations. While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will

provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

The damage claims need not be referenced in the EIR because they do not provide substantial evidence that drawdown of the reservoir as part of the FOCF was the main cause of the increase in feral pig numbers at Holiday Lake Estates, and because the existing conditions baseline used for the EIR impact analysis includes the FOCF drawdown.

Response to Comment P50-4

See *Master Response 5 – Impacts of FOCF and ADSRP on Feral Pig Presence*, for a discussion regarding direct and indirect impacts related to feral pig populations. As discussed therein, since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly result in property damage or hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods. Additionally, pursuant to CEQA Guidelines Section 15131, economic or social effects of a Project shall not be treated as a significant effect on the environment. As such, formal analysis of economic impacts, including economic impacts related to property damage and value, is not required. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs, and the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to property damage, safety, and hazards. However, as explained in Master Response 5 and Response to Comment O5-41, Valley Water will continue to work with other agencies, and to research and consider options for region-wide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCF and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the U.S. Department of Agriculture's, Animal and Plant Health Inspection Service, Wildlife Services (USDA APHIS WS) by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter P51

Response to Comment P51-1

As discussed in *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures*, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed. Park closure and construction activities associated with the Project would involve the installation of construction fencing around the park perimeter for public safety. During closure of the park in Year 4, 5, and/or 6, there would be staff hired by the construction contractor onsite 24/7 to open all gates within the park during emergency operations. As such, vehicle and pedestrian access would remain largely unchanged from existing conditions as a result of Project construction and the related closure of the Rosendin Park Area.

Responses to Comment Letter P52

Response to Comment P52-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P53

Response to Comment P53-1

The debris field radius would not extend beyond the park boundaries, and therefore would not require any roads or houses outside the park boundary to be unoccupied. The proposed closures to Rosendin Park have been revised, as discussed in *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures*. As discussed therein, park closure would remain temporary and would only be during blasting associated with the construction of the proposed Project, which remains the greatest public safety risk associated with use of Rosendin Park during project construction.

Response to Comment P53-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, for a discussion regarding direct and indirect impacts related to feral pig populations. The increase in numbers of feral pigs coincides with the boom in this species' regional populations. The California population of feral pigs is growing rapidly, and the Statewide population has an average growth rate of 20 percent per year. As discussed in Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, on pages 3.5-29 and 3.5-30, "Feral pigs reproduce prolifically; females may become sexually mature at less than 1 year of age and may produce up to four litters per year, including up to 18 piglets per litter (Rust 2022)."

Valley Water agrees with the comment that other animals, including coyotes and mountain lions, may cross the bed of the drawn-down reservoir. However, those species were already present in areas west of Anderson Reservoir/Coyote Creek prior to the FERC-ordered drawdown of the reservoir, and like feral pigs, they may reach areas such as Holiday Lake Estates by multiple pathways, including from areas to the north and south of the neighborhood. The presence of these species on both sides of the reservoir is thus included in the CEQA baseline for the Project.

Response to Comment P53-3

Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. The increase in feral pig populations and expansion of this species' distribution has occurred on a broad scale (not just in the immediate vicinity of Anderson Reservoir, or Holiday Lake Estates), and as discussed on page 3.5-30 in Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, of the Final EIR, there is no single solution to the issue. Concentrating food resources in other locations would not prevent the species from continuing to occur in Holiday Lake Estates or around Anderson Reservoir. Feral pigs have a highly varied diet and will continue to move throughout the vicinity of the reservoir looking for (and finding) food. Furthermore, there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While Project mitigation measures are not required related to feral pigs, for informational purposes, Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for reasons discussed in further detail in Master Response 5, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment P53-4

Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. As discussed therein, there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While Project mitigation measures are not required related to feral pigs, for informational purposes, Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for reasons discussed in further detail in Master Response 5, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter P54

Response to Comment P54-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Comment Letter P55- Schafer, Jeff

Letter P55

From: [Jeff Schafer](#)
To: [ADSRPcomments](#)
Subject: Rosendin Park Access: Attention:Tiffany Chao
Date: Monday, October 16, 2023 2:26:20 PM

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Hi Tiffany,

My family and I are residents in Jackson Oaks and are frequent users of Rosendin Park. We love how accessible the park is for an after dinner stroll, mid-afternoon exercise break and the sense of community by crossing paths with other residents.

Having local access to parks such as Rosendin, without having to drive across town, is of immense value & importance to us as a family and larger community. While we live in an area with a vast amount of open space, the majority of it is not easily accessible (Coyote Highlands, Jackson Ranch, etc.) from our immediate neighborhood. Rosendin is one of the few places that is accessible and a space that all age groups (young kids to grandparents) can enjoy given the easy grade and wide, relatively clear dirt roads.

I have three kids in middle school. A full closure of the area would mean that I would not be able to enjoy the space until my kids are out of highschool, missing the opportunity to spend time with my kids at Rosendin while they are in the house.

While I understand the safety concerns given the work taking place, I ask that Santa Clara Water District considers all possible alternatives in order to keep the park open & accessible for as long as possible to residents and park users.

Thanks for your consideration and willingness to partner with the community in order to find a common ground and solution.

Thanks,
Jeff

--
-js

P55-1

Responses to Comment Letter P55

Response to Comment P55-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P56

Response to Comment P56-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Comment Letter P57- Schnabel, Chris

Letter P57

Comment Card

ANDERSON DAM SEISMIC RETROFIT PROJECT

Public Meeting: October 4, 2023



Valley Water

Please provide your contact information below:

Name Chris SchnabelPhone 408-605-6705Email harley.50@verizon.netAddress 3460 Oak LaneMorgan Hill, Ca 95037Attendees may fill out comment cards and leave them at the meeting site or mail them in prior to the end of the review period, on Nov. 1, 2023. You can also submit your comments by emailing ADSRComments@valleywater.org or directly mailing your written comments to:Valley Water
Attention: Tiffany Chao
5750 Almaden Expressway
San José, CA. 95118-3686valleywater.org

Clean Water • Healthy Environment • Flood Protection

Please share your comments below.

The Draft Environmental Impact Report assesses potential environmental impacts resulting from construction and operation of the Anderson Dam Seismic Retrofit Project and suggests ways to minimize significant impacts.

P57-1

Why are Prolonging the dredging - which could be done
for ~~last~~ 6 mo. OR Bladder Dam at old Holiday Boat
Ramp: dredge with out ^{water} at Dam. Thus Expediting
the Pipe tunnel - No Water

P57-2

Why close whole Road in when only 1 path/trail
Goes by Lake?

Responses to Comment Letter P57

Response to Comment P57-1

The construction timeline is discussed in detail in Chapter 2, *Project Description*. As discussed in Section 2.5.4.5, *Dam Excavation, Reconstruction, and Crest Raising*, approximately 33,000 cy of sediment would be dredged from the upstream toe of the existing dam, near the existing intake structure during Year 1 of construction. The dredging would take approximately 9 to 12 weeks to complete. The Project's construction schedule is based on best engineering judgment by Valley Water. Dredging is the most efficient method to remove the sediments because material at the toe of the dam would be too soft and saturated to excavate using traditional methods.

Response to Comment P57-2

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P58

to Comment P58-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, for a discussion regarding direct and indirect impacts related to feral pig populations. As described therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir. The description of pig sightings in this comment is consistent with the conditions described in the Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR.

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, for a discussion regarding direct and indirect impacts related to feral pig populations. As addressed therein, the existing presence of feral pigs in the area, including their impact on local ecology and hazards to humans, is addressed in Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR. Because the Project would not worsen the existing presence of feral pigs, the Project would not indirectly or adversely affect habitat that is considered sensitive or that supports species of special status or concern or other biological resources protected under CEQA and CEQA Guidelines (e.g., wetlands) due to the presence of feral pigs. Likewise, the Project would not indirectly result in hazards impacts with regard to potential interaction between feral pigs and humans in proximate neighborhoods, including the safety concerns related to aggressive pigs. As such, the Draft EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to sensitive habitat, special-status species, and hazards.

See *Response to Comment P58-2* and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods, including the spread of disease through feces. The existing conditions described in this comment are consistent with the description of baseline conditions with respect to feral pigs discussed in Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, and 3.5-90 of the Final EIR.

Pig feces are a potential water quality issue, and pigs can be a health hazard, potentially transmitting diseases to people and domestic animals. Please see *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* and *Response to Comment O5-38*, which explain that the ADSRP would not result in a significant impact by facilitating or increasing environmental or

human health problems caused by wild pigs, and no further analysis of their impact is necessary for this Project.

Response to Comment P58-4

See Response to Comment P58-2 and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods. The existing conditions described in this comment are consistent with the description of baseline conditions with respect to feral pigs discussed in Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, and 3.5-90 of the Final EIR. Therefore, the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to hazards.

Response to Comment P58-5

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. There is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As a result, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While not required as part of Project EIR mitigation, for informational purposes, Valley Water has considered pig exclusion fencing, funding trapping and depredation, and directly undertaking trapping and depredation. Due to the adverse effects exclusion fencing can have on other wildlife species, the regional nature of the feral pig presence, and Valley Water's general policy against firearms on their property, these options were determined to be ineffective and/or infeasible. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter P59

Response to Comment P59-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, for a discussion regarding direct and indirect impacts related to feral pig populations. As described therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir. The description of pig sightings in this comment is consistent with the conditions described in Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, on .5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR.

Response to Comment P59-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, for a discussion regarding direct and indirect impacts related to feral pig populations. As discussed therein, since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods. The existing conditions described in this comment are consistent with the description of baseline conditions with respect to feral pigs discussed in Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, and 3.5-90 on the Final EIR. Therefore, the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to hazards.

Responses to Comment Letter P60

Response to Comment P60-1

The following is a summary of analysis included on page 3.8-55 in Section 3.8, *Geology and Soils*, of the Final EIR.

There are two earthquake fault zones in the Project Area. The Coyote Creek Range fault zone traverses Anderson Dam, and the Calaveras fault runs along the east side of Anderson Reservoir and traverses the southeastern portion of Anderson Reservoir. Seismic retrofit construction would involve construction activities such as excavation, tunneling, and blasting. An earthquake could occur if seismic retrofit construction activities cause substantial vibration; enough vibration could “unlock” rock currently under immense stress and cause an earthquake. However, excavation, tunneling, and blasting are not known to have any effect on the local likelihood of an earthquake occurring. Additionally, the rocks under immense stress that could cause an earthquake when “unlocked” are typically located 3.5 to 10 miles below ground surface. Vibration caused by seismic retrofit construction activities would fade after it travels about 350 feet away from the vibration source. Therefore, construction activities that generate vibration would not generate enough vibration to cause an earthquake and would not generate vibration close enough to rock under pressure to cause an earthquake.

Responses to Comment Letter P61

Response to Comment P61-1

The commenter requested a separate EIR be prepared for the Rhoades Ranch Historic District. CEQA generally requires government agencies to evaluate the environmental impacts of proposed projects. The CEQA Guidelines define a project as “the whole of the action” that may result in direct or indirect physical changes to the environment. CEQA explicitly forbids dividing a project into two or more pieces and evaluating each piece in a separate environmental document, referred to as piecemealing or segmenting. The Project described in the Draft EIR constitutes the whole of the action; portions of the Project located in or affecting the Rhoades Ranch Historic District cannot be evaluated separately under CEQA. Section 3.6, *Cultural Resources*, on page 3.6-50 of the Final EIR includes the evaluation of Project construction-related impacts related to the Rhoades Ranch Historic District and concludes that impacts are less than significant.

Responses to Comment Letter P62

Response to Comment 62-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Due to these changes, Valley Water has determined that reinforcing the barriers at the dam would not be necessary.

Responses to Comment Letter P63

Response to Comment P63-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Due to these changes, Valley Water has determined that reinforcing the barriers at the dam would not be necessary.

Responses to Comment Letter P64

Response to Comment P64-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P65

Response to Comment P65-1

As discussed in Section 3.7, *Energy*, on page 3.7-6 of the Final EIR, the Anderson Hydroelectric Facility has been inactive since 2018, and there have been no plans to reactivate the facility given that nearly all of Valley Water's current energy use is from carbon-free sources, including hydroelectric, solar, and other renewables. As stated on page 3.7-22: "Given the current, and near future, inability of the hydroelectric facility to provide any meaningful amounts of electricity, the hydroelectric facility is not currently considered as a local or regional energy supplier. Thus, energy supply planning would not consider the hydroelectric facility a source of near-term additional capacity." Therefore, the decommissioning of the hydroelectric facility would not increase the burden on regional electricity supply, and no substitute electricity supply is needed or proposed as part of the Project. No changes to the Draft EIR are required.

Responses to Comment Letter P66

Response to Comment P66-1

The Draft EIR public review and comment period occurred for 69 days from September 1, 2023, to November 8, 2023. This is 24 days longer than the 45-day period required for EIR public review and comment pursuant to CEQA and CEQA Guidelines. Public notice of Draft EIR availability was given by September 1, 2023, consistent with CEQA requirements. The Draft EIR was made available on Valley Water's website and for in-person review at the Valley Water headquarters, City Clerk of the City of Morgan Hill, and the City of Morgan Hill Library. All public noticing regarding availability of the Draft EIR for public review was conducted consistent with CEQA and the CEQA Guidelines.

Responses to Comment Letter P67

Response to Comment P67-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P68*Response to Comment P68-1*

This comment letter is a duplicate of Comment Letter P48. See Response to Comment P48-1.

Response to Comment P68-2

This comment letter is a duplicate of Comment Letter P48. See Response to Comment P48-2.

Response to Comment P68-3

This comment letter is a duplicate of Comment Letter P48. See Response to Comment P48-3.

Response to Comment P68-4

This comment letter is a duplicate of Comment Letter P48. See Response to Comment P48-4.

Responses to Comment Letter P69

Response to Comment P69-1

The Project's construction timeline is discussed in Chapter 2, *Project Description*, starting on page 2-37 of the Final EIR. As discussed therein, the Seismic Retrofit component of the Project would take 7 years to construct, due to a combination of factors. First, during the 5 years of dam embankment construction, the existing spillway would not be able to safely pass large storms and the reservoir would have reduced capacity, which increases the risk of the dam overtopping. To reduce this risk, construction must stop before each rainy season to build temporary spillways that help manage stormwater safely. This necessary pause limits how much work can be done each year. Additionally, dam embankment construction cannot be accelerated given the limited footprint of the dam embankment itself, and the large volume of earthwork required to be completed in this area during each dry season.

After circulation of the Draft EIR, Valley Water met with the Project Board of Consultants, which reviews the Project and makes recommendations to FERC, to discuss updated design plans and construction sequencing. In response to that meeting and Board of Consultants recommendations, Valley Water proposed in the Partially Recirculated Draft EIR to make certain construction changes such as extending work hours, adding some weekend days, and beginning work on certain Project components sooner. These proposed changes would allow Valley Water to construct planned Project components within the planned construction timeline before the wet season each year to improve its ability to complete the Project on schedule.

Response to Comment P69-2

The EIR includes extensive discussion of project impacts on wildlife. The EIR evaluates impacts on animals in detail, describing existing conditions with respect to animals in Section 3.5.1 and impacts in Sections 3.5.3, 3.5.4, and 3.5.5. Please also refer to the response to Comment P69-4.

Response to Comment P69-3

Pursuant to CEQA Guidelines Section 15131, economic or social effects of a project shall not be treated as a significant effect on the environment. As such, EIR analysis of a project's impacts on property values is not required.

Response to Comment P69-4

Valley Water disagrees with the suggestion that wildlife impacts have not been considered adequately. The EIR includes extensive discussion of project impacts on wildlife. The EIR evaluates impacts on animals in detail, describing existing conditions with respect to animals in Section 3.5.1 and impacts in Sections 3.5.3, 3.5.4, and 3.5.5.

This comment pertains primarily to existing conditions resulting from the FERC-ordered drawdown of Anderson Reservoir. The conditions described in this comment are consistent with the description of baseline conditions with respect to feral pigs discussed on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, and 3.5-90 of the Final EIR. These conditions are part of the CEQA baseline for ADSRP construction. Section 3.0.2 describes environmental baselines used for assessment of impacts under CEQA, and Section 3.0.2.1 on pages 3-2 and 3-3 of the Final EIR specifically

discusses the existing conditions baseline for evaluating construction phase impacts of the Project.

Please also refer to Master Response 5, which discusses that the drawdown condition of Anderson Reservoir as a result of the FOCIP represents the appropriate CEQA baseline for ADSRP construction; that the increase in feral pig numbers at Holiday Lake Estates has coincided with population increases throughout the region as feral pig populations continue to grow and expand, and is part of the CEQA baseline; that there are multiple pathways (some of which do not involve pigs moving through the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Holiday Lake Estates; and that there is no substantial evidence that the ADSRP would have a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions.

The comment mentions that the Draft EIR includes “fencing out the pigs.” That is incorrect. As discussed in Master Response 5, Valley Water has considered whether the installation of pig exclusion fencing would be a feasible, effective means of reducing existing problems associated with feral pigs in the vicinity of Anderson Reservoir. However, Valley Water determined that the installation of pig exclusion fencing could present impediments to movement by native wildlife, and fencing would not be an effective long-term solution unless it completely surrounded an area (e.g., Holiday Lake Estates), as feral pigs can enter the neighborhood from multiple directions and pathways.

The comment suggests that animals may get stuck in the mud of the dewatered reservoir. While this may happen on occasion, there is no evidence or expectation that large numbers of animals would be impacted by getting stuck in the mud of the reservoir. Most individuals are sufficiently well adapted to the variable water levels in Anderson Reservoir, and in other waterbodies in the region, that they would not plunge into deep mud to the point of becoming stuck. As a result, the number of individual animals of any given species that may become stuck in mud of the dewatered reservoir would be low, and this would not result in a significant impact on wildlife.

Valley Water agrees that water is important to a variety of wildlife. Foxes, deer, mountain lions, bobcats, wild turkeys, tule elk, and other animals that would otherwise obtain water from Anderson Reservoir would need to use alternative water sources, such as ponds in surrounding areas and San Felipe Creek, Packwood Creek, or the reach of Coyote Creek between Coyote Dam and Anderson Reservoir, when the reservoir is dewatered for project construction. As discussed on page 2-17 of the Final EIR, Valley Water intends to continue normal operations of Coyote Reservoir with the intent of maintaining flow in the reach of Coyote Creek between Coyote Dam and the upper end of Anderson Reservoir, which would provide water for wildlife in that area. Because alternative water sources for wildlife will be present during Project construction, the Project would not result in a significant impact on wildlife due to dewatering of Anderson Reservoir.

Responses to Comment Letter P70

Response to Comment P70-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

In terms of upgrading the deterrents for people who continue to enter the Dam site while it is closed, Valley Water has decided to put up additional signage during the times when initial blasting would occur, as that is the phase of construction that raises the most safety concern and the phase of construction that would trigger the temporary closure of the park for 3-4 months, as described in Master Response 4. Due to the reduction in the duration and extent of the park closure, increasing the physical barriers within the park is not necessary.

Response to Comment P70-2

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed. During closure of the park in years 4, 5, and/or 6, there would be staff hired by the construction contractor onsite 24/7 to open all gates within the park in the event of an emergency; however, adding security staff to allow access to all or portions of the park during blasting, as the commenter suggests, is not feasible as the public safety risk would remain.

Responses to Comment Letter P71

Response to Comment P71-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed. In addition, Valley Water has decided to put up additional signage during the times when initial blasting will occur, as that is the phase of construction that raises the most safety concern and the phase of construction that will trigger the temporary closure of the park for 3-4 months, as described in Master Response 4.

Responses to Comment Letter P72

Response to Comment P72-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P73

Response to Comment P73-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Additionally, the Project's construction timeline is discussed in Chapter 2, *Project Description*, starting on page 2-37 of the Final EIR. As discussed therein, the Seismic Retrofit component would take 7 years to construct, due to a combination of factors. First, during the 5 years of dam embankment construction, the existing spillway would not be able to safely pass large storms and the reservoir would have reduced capacity, which increases the risk of the dam overtopping. To reduce this risk, construction must stop before each rainy season to build temporary spillways that help manage stormwater safely. This necessary pause limits how much work can be done each year. Additionally, dam embankment construction cannot be accelerated given the limited footprint of the dam embankment itself, and the large volume of earthwork required to be completed in this area during each dry season.

After circulation of the Draft EIR, Valley Water met with the Project Board of Consultants, which reviews the Project and makes recommendations to FERC, to discuss updated design plans and construction sequencing. In response to that meeting and Board of Consultants recommendations, Valley Water proposed in the Partially Recirculated Draft EIR to make certain construction changes such as extending work hours, adding some weekend days, and beginning work on certain Project components sooner. These proposed changes would allow Valley Water to construct planned Project components within the planned construction timeline before the wet season each year to improve its ability to complete the Project on schedule.

Responses to Comment Letter P74

Response to Comment P74-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter P75

Response to Comment P75-1

See Master Response 5 – *Impacts of FOCP and ADSRP on Feral Pig Presence*, for a discussion regarding direct and indirect impacts related to feral pig populations. While the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

While any existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment P75-2

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Responses to Comment Letter F1

Response to Comment F1-1

As described in Table 2-4 on pages 2-46 and 2-47 of the Final EIR, construction Staging Area 6 would be the Holiday Lake Estates Boat Ramp Parking Lot, which would be accessed from Holiday Drive. Note that page 2-72 of the Final EIR acknowledges that parking and access to Holiday Lake Estates Boat Ramp has been closed since October 2020 as part of the separate FOCIP. Table 2-14 on pages 2-92 and 2-93 of the Final EIR also discloses that during construction Years 2 to 10, materials would be harvested, sorted, and washed, then stored at construction Staging Area 6. In response to this comment, Valley Water will engage with HEMA prior to Project construction to notify HEMA of plans for temporary use of Holiday Lake Estates roads, and to negotiate an agreement with HEMA for equitable payment for use of HEMA's private roads during Project construction.

Response to Comment F1-2

Section 3.19, Transportation, on page 3.19-10 of the Final EIR identifies Holiday Drive as a "private local street with no sidewalks or bike lanes." While traffic flow and/or congestion and parking are no longer environmental issues of concern under CEQA (refer to CEQA Guidelines Section 15064.3(a)), the associated circulation, safety, and emergency access issues are addressed in the EIR. EIR Appendix A, Best Management Practices, Santa Clara Valley Habitat Conservation Plan Conditions, Avoidance and Minimization Measures, and Mitigation Measures, includes the following Valley Water BMPs that pertain to public safety, pedestrians, and roadway vehicle flow:

GEN-37: Implement Public Safety Measures – This measure would specify public safety measures to notify and warn the recreating public of Project measures and mitigate public safety at 32 recreational facilities and trails.

GEN-39: Planning for Pedestrians, Traffic Flow, and Safety Measures – This measure would schedule bicycle and pedestrian facility closures outside the peak morning and afternoon periods to minimize the impact of Project measures on recreational access and use.

TR-1: Incorporate Public Safety Measures – This measure would require installation of signs, safety fencing, and access to detours (if feasible) that provide adequate warning to the public of the construction work area.

With regard to emergency access, Impact TR-4 addresses emergency access in Section 3.19, Transportation, on pages 3.19-42 and 3.19-43 of the Final EIR and lists the following mitigation measures. Overall, Project impacts related to emergency access adequacy during construction would be less than significant with mitigation.

PS-1: Prepare and Implement Construction Traffic Management Plan

WF-1: Reduce Emergency Response and Evacuation Interference during Construction and Develop a Response and Evacuation Strategy

As such, use of Holiday Drive by Project construction vehicles and its effects related to roadway circulation, safety, and emergency access has been addressed in the EIR.

Response to Comment F1-3

As stated in Chapter 2, *Project Description*, in Table 2-4 on page 2-47 of the Final EIR, Staging Area 6 would be accessed via Holiday Drive. However, during construction, Holiday Drive would primarily serve as an access route for construction crews (passenger vehicles) and water trucks for dust suppression, with limited use by haul trucks and other heavy-duty vehicles. As discussed under Response to Comment F1-1, Valley Water will engage with HEMA prior to Project construction to notify HEMA of plans for temporary use of Holiday Lake Estates roads, and to negotiate an agreement with HEMA for equitable payment for use of HEMA's private roads during Project construction.

Response to Comment F1-4

As discussed under Response to Comment F1-1, construction Staging Area 6 would be at the Holiday Lake Estates Boat Ramp Parking Lot, which would be accessed from Holiday Drive. While increased use of Holiday Drive by construction vehicles could contribute to wildlife strikes, the distance project-related vehicles would travel along Holiday Drive between the entrance to Holiday Lake Estates and the gate to the boat ramp parking lot is only 0.75 miles. While deer, turkeys, and other common species of wildlife occur along that road segment, the potential for and magnitude of vehicle-wildlife collisions would be low by virtue of the short travel distance along Holiday Drive. Also, there are three speed bumps along that 0.75-mile segment of road that would reduce the speed of project-related vehicles, thereby reducing the potential for wildlife collisions.

In addition, the following VHP AMMs would apply to the Project to minimize wildlife strikes:

AMM 89: The potential for traffic impacts on terrestrial animal species will be minimized by adopting traffic speed limits.

AMM 90: All trash will be removed from the site daily to avoid attracting potential predators to the site.

Valley Water BMP BI-11, which is standard for all Valley Water projects, also specifies that Valley Water will remove trash daily from worksites to avoid attracting potential predators.

With implementation of these AMMs and BMPs, wildlife collisions during Project construction are expected to occur very infrequently, and Valley Water does not propose compensation for costs associated with wildlife removal.

Response to Comment F1-5

As discussed under Response to Comment F1-1, construction Staging Area 6 would be accessed from Holiday Drive. As discussed under Response to Comments F1-1 and F1-3, Valley Water will engage with HEMA prior to Project construction to notify HEMA of plans for temporary use of Holiday Lake Estates roads, and to negotiate an agreement with HEMA for equitable terms for use of HEMA's private roads during Project construction.

Responses to Comment Letter F2

Response to Comment F2-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend.

The increase in feral pig numbers at Holiday Lake Estates has coincided with population increases throughout the region as feral pig populations continue to grow and expand, and there are multiple pathways (some of which do not involve pigs moving through the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Holiday Lake Estates. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Furthermore, the existing presence of feral pigs in the area, including their impact on local ecology and hazards to humans, is addressed in Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR. Because the Project would not worsen the existing presence of feral pigs, the Project would not indirectly or adversely affect habitat that is considered sensitive or that supports species of special status or concern or other biological resources protected under CEQA and CEQA Guidelines (e.g., wetlands) due to the presence of feral pigs. Likewise, the Project would not indirectly result in hazards impacts with regard to potential interaction between feral pigs and humans in proximate neighborhoods, including the safety concerns related to aggressive pigs. As such, the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to sensitive habitat, special-status species, and hazards.

Response to Comment F2-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend.

The Draft EIR did not claim that feral pigs have always been on the Holiday Lake Estates side of Anderson Reservoir. Rather, the Draft EIR and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* discuss that feral pigs were present on the west side of Coyote Creek, at Coyote Canyon just south of Jackson Oaks, prior to the drawdown of the reservoir and that these pigs could easily have increased in number and dispersed into Holiday Lake Estates without having to cross Anderson Reservoir.

Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other resource

agencies and to research and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Comment Letter F3- B., Danika**Letter F3**

From: [Danika b](#)
To: [Anderson_FERC](#)
Subject: Wildlife issues
Date: Tuesday, November 7, 2023 11:55:49 PM

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

I hope you can help—We’ve been in Jackson Oaks for 20+ years and only have had this issue with the boars since the work has started with the dam. Didn’t even put the timing together until someone mentioned it.

F3-1

A lot of time, sweat, and money has been put into making our yards homey and the boars have been making a mockery of the efforts by constantly digging trenches. Not to mention scaring our dogs. Groups of boar have even taken to being out in broad daylight...

F3-2

I know we are not the only ones effected since we see lawns and landscapes torn up every day.

I really hope the fund will see fit to help alleviate the boar issue and return the safety of the neighborhoods in both Jackson Oaks and Holiday Lake.

F3-3

-Danika

Responses to Comment Letter F3

Response to Comment F3-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend.

The increase in feral pig numbers at Jackson Oaks has coincided with population increases throughout the region as feral pig populations continue to grow and expand, and there are multiple pathways (some of which do not involve pigs moving through the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Jackson Oaks. Feral pigs were present on the west side of Coyote Creek, at Coyote Canyon just south of Jackson Oaks, prior to the drawdown of the reservoir, and these pigs could easily have increased in number and dispersed into Holiday Lake Estates without having to cross Anderson Reservoir.

Response to Comment F3-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, the Project would not worsen the existing presence of feral pigs, and, therefore, the Project would not adversely affect habitat that is considered sensitive or that supports species of special concern or other biological resources protected under CEQA (e.g., wetlands) due to the presence of feral pigs.

The presence of feral pigs in the area is an existing condition that is part of the baseline for the Project. Using this baseline, Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, analyzed the impact of the Project related to biological resources as required by CEQA. As discussed on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR, the Project would not directly or indirectly worsen the presence of feral pigs.

While the existing damages at Jackson Oaks are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F3-3

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of the options for feral pig management that Valley Water has considered. As discussed therein and in Response to Comment O5-38, the ADSRP would not result in a significant impact by

facilitating or increasing environmental or human health problems caused by feral pigs, and no mitigation measures related to feral pigs are necessary. In addition, as discussed in Master Response 5,, Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for reasons discussed in further detail in Master Response 5, Valley Water will continue to work with other agencies and to research and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F4

Response to Comment F4-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Response to Comment F4-2

Chapter 2, *Project Description*, on pages 2-37 and 2-38 of the Final EIR includes a full description of the Project's proposed schedule. Following Project approval, Valley Water is committed to constructing the Project as soon as feasible, while considering the significant and necessary planning and design efforts to ensure successful implementation of a project of this scale and complexity. The Project's construction timeline is as expedited as practicable and generally, work on the Project would still be performed during the winter and on weekends depending on the specific construction activity where the construction activity would occur, and the feasibility of conducting that activity during the wet season.

As discussed on page 2-38 of the Final EIR, in-channel work downstream of the dam would occur during the dry season but could be extended in a given year with regulatory agency approvals and contingent on weather conditions, implementation of BMPs, and remaining work activities that would need to be completed within the work season. Work within the reservoir area, including dam excavation and reconstruction, would occur in a work season that extends into the "wet season" from April 1 to November 30 or later to complete the work for public safety reasons. In-channel work would generally be limited to occur from June 15 to October 15.

After circulation of the Draft EIR, Valley Water met with the Project Board of Consultants, which reviews the Project and makes recommendations to FERC, to discuss updated design plans and construction sequencing. In response to that meeting and Board of Consultants recommendations, Valley Water proposed in the Partially Recirculated Draft EIR to make certain construction changes such as extending work hours, adding some weekend days, and beginning work on certain Project components sooner. These proposed changes would allow Valley Water to construct planned Project components within the planned construction timeline before the wet season each year to improve its ability to complete the Project on schedule.

Response to Comment F4-3

Baseline conditions with respect to feral pigs are discussed in Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, and 3.5-90 of the Final EIR. These conditions are part of the CEQA baseline for Project construction. Section 3.0.2, *Environmental Baselines*, describes environmental baselines used for assessment of impacts under CEQA, and Section 3.0.2.1, *Existing Conditions Baseline*, on pages 3-2 and 3-3 of the Final

EIR specifically discusses the existing conditions baseline for evaluating construction phase impacts of the Project. Those sections state that the construction baseline for all resource topics (not just feral pigs or terrestrial biology) is represented by the conditions that would be present following FOCF completion. Using this baseline, Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, analyzes the impact of the Project related to biological resources as required by CEQA. As discussed on Final EIR pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205, the Project would not directly or indirectly worsen the presence of feral pigs.

See *Master Response 5 – Impacts of FOCF and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. Furthermore, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir. While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCF and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F4-4

As discussed under Response to Comment O2-4, FOCF, which included draining Anderson Reservoir to deadpool, is considered a separate project under CEQA and is necessary to prevent or mitigate against catastrophic dam failure. The EIR is not required to evaluate existing conditions or impacts from separate projects and is only required to evaluate changes from existing conditions that would result from construction and operation of the Project. FOCF was determined to be eligible for a Statutory Exemption under Public Resources Code Section 21080 (b)(4) and CEQA Guidelines Section 15269 (c) that are for specific actions necessary to prevent or mitigate an emergency. A Notice of Exemption for FOCF was filed in June 2020.

Furthermore, see *Master Response 5 – Impacts of FOCF and ADSRP on Feral Pig Presence* for a discussion of the baseline used to analyze impacts of the Project on biological resources. As discussed therein, the baseline utilized for the environmental analysis in the EIR is existing conditions at the time of Draft EIR preparation modified by FOCF implementation (Existing Conditions Baseline). The Existing Conditions Baseline reflects the conditions with Anderson Reservoir at deadpool and feral pigs present in the areas surrounding the reservoir and the region, as this allows for a more accurate assessment of construction phase impacts, aligning with the CEQA Guideline goal of selecting a baseline that presents the most accurate picture of the Project's impacts (CEQA Guidelines Section 15125a). Existing conditions at the time of EIR Notice of Preparation issuance (August 2013) is not used as a baseline because many environmental conditions have changed since 2013 and will be further modified by the FOCF, all

of which would occur before Project construction commences. As such, adequate environmental analysis of the Project's impact related to biological resources has been conducted.

The comments regarding the Valley Water Board of Director's hearings on claims for feral pig damages due to reservoir drawdown do not pertain to the adequacy, content, or impact conclusions of the Draft EIR, and no further response is necessary.

Response to Comment F4-5

Pursuant to FERC requirements, Anderson Reservoir must be operated to maintain the water surface at the FERC-restricted deadpool level, or approximately 3 percent of its total capacity. When water levels within Anderson Reservoir exceed this level, e.g., due to rainfall, excess water is released into Coyote Creek. Valley Water cannot store additional water beyond the FERC-restricted deadpool level in Anderson Reservoir until the Project is complete. Additionally, as stated in Section 3.22, *Wildfire*, on page 3.22-24 of the Final EIR, CALFIRE did not express concerns over the lack of access to water when Anderson Reservoir would be at deadpool or fully dewatered. Helicopters would have access to water from Anderson Reservoir under deadpool conditions for fire suppression and would not have to fly longer distances relative to existing baseline conditions. Within the vicinity of Anderson Reservoir, the Coyote, Chesbro, and Uvas reservoirs would remain available as alternative water sources for firefighting.

For discussion pertaining to wildfire risk associated with low water levels, refer to *Master Response 7 - Impacts of FOCIP and ADSRP on Wildfire Risks*. As discussed therein, the existing water level of Anderson Reservoir fluctuates year to year and throughout each year, depending on conditions such as rainfall, drought, and dam operations. Low water levels and a mostly dry lakebed during FOCIP implementation are conditions that would occur regardless of Project implementation. The Anderson Reservoir area is regularly experiencing periods where Anderson Reservoir is at low levels, which would consist of conditions where there is a lack of or a limited water barrier for potential wildfires. Therefore, the Project would not exacerbate potential wildfire risks associated with the water level of Anderson Reservoir compared to existing conditions.

Responses to Comment Letter F5

Response to Comment F5-1

This comment is a duplicate of Comment P5-1. See Response to Comment P5-1.

Response to Comment F5-2

This comment is a duplicate of Comment P5-2. See Response to Comment P5-2.

Response to Comment F5-3

This comment is a duplicate of Comment P5-3. See Response to Comment P5-3.

Response to Comment F5-4

This comment is a duplicate of Comment P5-4. See Response to Comment P5-4.

Responses to Comment Letter F6

Response to Comment F6-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Additionally, the presence of feral pigs in the Project area is an existing condition that is part of the baseline for the Project. Using this baseline, Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, analyzes the impact of the Project related to biological resources as required by CEQA. As discussed on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR, the Project would not directly or indirectly worsen the presence of feral pigs.

Furthermore, the existing presence of feral pigs in the area, including their impact with regard to hazards to humans, is addressed in Section 3.5 on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR. Because the Project would not worsen the existing presence of feral pigs, the Project would not indirectly result in hazards impacts with regard to potential interaction between feral pigs and humans in proximate neighborhoods, including the safety concerns related to aggressive pigs.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F6-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, the Project would not worsen the existing presence of feral pigs and, thus, would not indirectly and adversely affect habitat that is considered sensitive or that supports species of special concern or other biological resources protected under CEQA (e.g., wetlands) due to the presence of feral pigs. Likewise, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods, including the safety concerns related to aggressive pigs.

While the encounters with pigs are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F7

Response to Comment F7-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of the options of feral pig management that Valley Water has considered. As discussed therein, Valley Water considered both the funding of trapping and depredation of feral pigs as well as directly undertaking trapping and depredation on Valley Water property. Due to the lack of established regional or local programs to trap and depredate feral pigs, the regional nature of the feral pig presence, and Valley Water’s general policy against firearms on their property, these options were determined to be ineffective and/or infeasible. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F7-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of the options of feral pig management that Valley Water has considered. As discussed therein, due to the regional nature of the feral pig presence, removing pigs from or otherwise deterring pigs from entering Valley Water property, would not be effective, as pigs would likely travel into nearby areas not owned by Valley Water. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Comment Letter F8- Cabezas, Marco**Letter F8**

From: [Marco Cabezas](#)
To: [Anderson_FERC](#)
Subject: Wild pigs
Date: Friday, October 27, 2023 2:24:12 PM

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

My name is Marco cabezas - I live in 17205 holiday drive

I been living in the holiday drive for the past 7 years. Since the drainage of the lake we've had boars all over the place. At first this wasn't a concern until one day I woke up and my yard was tore up. 30 thousand dollars in damage.

Now they sleep next to my house. I can't go outside. There are feces every where. My dogs can't go outside. This is a mess and you guys are responsible for all this.

Something has to be done in order to control this wild animals.

Respectfully

Marco cabezas

Sent from my iPhone

F8-1

F8-2

Responses to Comment Letter F8

Response to Comment F8-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Additionally, the presence of feral pigs in the area is an existing condition that is part of the baseline for the proposed Project. Using this baseline, Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, analyzes the impact of the proposed Project on biological resources as required by CEQA. As discussed on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR, the Project would not directly or indirectly worsen the presence of feral pigs.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F8-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts of related to feral pig populations. As discussed therein, since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly and adversely affect water quality of the proximate sensitive riparian and water areas due to changes in feral pig populations in the Project Area. Likewise, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods, including the spread of disease or safety concerns related to aggressive pigs. Therefore, the EIR adequately addresses potential impacts related to feral pigs, and no mitigation measures are necessary to reduce Project impacts related to feral pigs.

Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please

refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F9

Response to Comment F9-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Furthermore, since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods, including safety concerns related to aggressive pigs. Therefore, the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to hazards.

Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F9-2

Section 3.16, *Noise and Vibration*, on pages 3.16-31 through 3.16-69 of the Final EIR addressed Project construction noise impacts. Specifically, page 3.16-40 of the Final EIR found that construction noise would be significant and, thus, Mitigation Measures NOI-1 (Implement Construction Noise Reduction Measures) and NOI-2 (Implement Seismic Retrofit Construction Noise Reduction Measures) are required. Mitigation Measure NOI-1 will require Valley Water to implement a Construction Management Plan, which would require prior notice of construction activities to nearby sensitive receptors, proper maintenance of all construction equipment, equipping all construction equipment with mufflers and air intake silencers, locating staging and delivery areas as far from sensitive receptors (e.g., residences) as is feasible, enclosing stationary noise sources in temporary sheds, restricting the use of bells, whistles, alarms, and horns, and posting signs at construction area entrances to reinforce the prohibition of unnecessary idling. Mitigation Measure NOI-2 is specific to Seismic Retrofit construction and will require the installation of a temporary noise barriers at Staging Area 1, limiting of construction activity within close distances of residences, posting of signs with a noise complaint phone number, and construction noise monitoring during nighttime construction.

Fugitive dust impacts from Project construction are addressed in Section 3.3, *Air Quality*. Specifically, page 3.3-29 of the Final EIR describes that BMPs for fugitive dust control would be

implemented through Valley Water BMP AQ-1 (Use Dust Control Measures). Specific to haul roads within the reservoir, this measure requires watering of exposed surfaces and roads, applying a layer of gravel, covering of haul trucks transporting soil or other loose material, maintaining vehicle speeds of no more than 15 miles per hour in areas with NOA, minimizing vehicle idling times, and maintenance of construction vehicles and equipment. In addition, all projects must comply with the BAAQMD Rule 6-1, which limits fugitive particulate emissions, and Rule 6-6, which limits track-out of solid materials onto paved public roads outside the boundaries of large construction sites. Furthermore, the Final EIR on page 3.3-42 concluded that, even with BMP AQ-1, fugitive dust impacts would be significant and, thus, Mitigation Measure AQ-3 (Implement BAAQMD Enhanced Construction BMPs) will be required. Mitigation Measure AQ-3 includes planting vegetative ground cover or using a soil stabilizer and minimizing the simultaneous occurrence of excavation, grading, and ground-disturbing activities on the same area at any one time, whenever feasible.

After circulation of the Draft EIR, Valley Water met with the Project Board of Consultants, which reviews the Project and makes recommendations to FERC, to discuss updated design plans and construction sequencing. In response to that meeting and Board of Consultants recommendations, Valley Water proposed in the Partially Recirculated Draft EIR to make certain construction changes such as extending work hours, adding some weekend days, and beginning work on certain Project components sooner. These proposed changes would allow Valley Water to construct planned Project components within the planned construction timeline before the wet season each year to improve its ability to complete the Project on schedule. These Project changes necessitated revisions to certain impact analyses in the aesthetics, air quality, GHG emissions, and noise and vibration sections of the Draft EIR, and the Partially Recirculated Draft EIR determined there would be no change to the impact determinations related to these resources from those disclosed in the Draft EIR.

Responses to Comment Letter F10

Response to Comment F10-1

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment F10-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering and there are multiple pathways (some of which do not involve pigs moving through the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Holiday Lake Estates. Feral pigs were present on the west side of Coyote Creek, at Coyote Canyon within 0.6 mile south of Holiday Lake Estates, prior to the drawdown of the reservoir, and these pigs could easily have increased in number and dispersed into Holiday Lake Estates without having to cross Anderson Reservoir.

Furthermore, since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly and adversely affect water quality of the proximate sensitive riparian and water areas due to changes in feral pig populations in the Project Area. Likewise, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods, including the spread of disease or safety concerns related to aggressive pigs. Therefore, the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to water quality and hazards.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F10-3

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. There is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under

baseline conditions. As a result, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While not required as part of Project EIR mitigation, for informational purposes, Valley Water has considered pig exclusion fencing, funding trapping antipredation, and directly undertaking trapping and depredation. Due to the adverse effects exclusion fencing can have on other wildlife species, the regional nature of the feral pig presence, and Valley Water's general policy against firearms on their property, these options were determined to be ineffective and/or infeasible. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F10-4

See Response to Comment F10-3 and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of the options for feral pig management. As discussed therein, because the feral pig presence is a regional issue, Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F10-5

As stated in Chapter 2, *Project Description*, on page 2-43 of the Final EIR, blasting would occur during Years 4, 5, and/or 6 of construction and would not be intermittently spread throughout the entire construction period. The comment regarding the Project planning timeline does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment F10-6

See Response to Comment F10-3 and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of the options for feral pig management. As discussed therein, there is no existing regional program that Valley Water could fund to promote the trapping and depredation of feral pigs. Furthermore, due to Valley Water's existing policies against the use of firearms on their property, undertaking trapping and depredation directly is not feasible. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F10-7

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment F10-8

See *Master Response 4 – Impacts of FOCF and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Response to Comment F10-9

As discussed under Response to Comment F10-5, page 2-43 of the Final EIR describes that blasting would occur during Year 4, 5, and/or 6 of construction and would not be intermittently spread throughout the entire construction period. The potential need for real estate disclosures due to blasting is speculative and does not pertain to the adequacy, content, or impact conclusions of the Draft EIR.

Response to Comment F10-10

Any potential losses in property values due to reservoir dewatering during FOCF are speculative and would not be attributable to the Project, since that dewatering occurred as part of the separate FOCF. Additionally, pursuant to CEQA Guidelines Section 15131, economic or social effects of a Project shall not be treated as a significant effect on the environment. As such, EIR analysis of a project's impacts on property values is not required.

Response to Comment F10-11

Reservoir-induced seismicity is discussed in Section 3.8, *Geology and Soils*, of the Final EIR starting on page 3.8-55. As discussed therein, the Project would not increase the depth of the reservoir over the Pre-FERC Order Baseline and therefore would not exacerbate risk of reservoir-induced seismicity and surface fault rupture or impacts on the foundations of nearby homes.

Regarding the potential movement of home foundations, Valley Water assumes this comment is in reference to potential landslides. As discussed in Section 3.8, *Geology and Soils*, landslides due to reservoir drawdown are part of the existing conditions that have occurred before this Project and are expected to continue to occur after completion of Project construction activities in the same manner as they do now. Erosion and potential landslides caused by construction activities are not expected to result in destabilization of the hillside supporting the Holiday Lake Estates neighborhood. Valley Water would continue to monitor slope stability and landslide movement through the use of installed survey monuments and satellite reflectors within the

reservoir as part of its normal operations. Construction of all facilities associated with the Seismic Retrofit would be conducted in accordance with all relevant provisions of the current FERC and DSOD standards that reduce risks associated with geologic and slope stability. Furthermore, the Project would include Mitigation Measure GEO-1 (Repair Landslides Caused by Construction Activities), which would require Valley Water to monitor active landslide areas during the Seismic Retrofit Construction and initial filling of the reservoir. If landslide movement is determined to have been caused by the Seismic Retrofit Construction activities and found to impact existing improvements, then Valley Water would implement ground stabilization methods to prevent further movement. Therefore, no changes to the Draft EIR are proposed.

Response to Comment F10-12

Valley Water has conducted a total of 16 public information meetings since 2017 outside of the formal CEQA scoping process, in addition to 27 other public meetings to solicit and consider public feedback on the Project. Furthermore, Valley Water has provided the Draft EIR for public comment. Valley Water will continue public outreach efforts throughout Project planning design, and construction. This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Response to Comment F10-13

This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required. Nevertheless, for informational purposes, acquisition of these properties occurred as part of the implementation of the separate FOCP. Valley Water has acquired the properties from voluntary property sellers. Valley Water has not “forced” anyone from these properties.

Response to Comment F10-14

As discussed under Response to Comment F10-12, Valley Water conducted public outreach pursuant to CEQA and CEQA Guidelines to solicit and consider feedback on the Project. EIR public scoping comments were considered by Valley Water, and Draft EIR and Partially Recirculated Draft EIR public comments pertaining to the environmental analysis are addressed in this Final EIR, as appropriate. Other comments, including comments pertaining to economic concerns raised by residents, have also been considered by Valley Water. Valley Water will continue public outreach efforts throughout Project planning, design, and construction. This comment does not pertain to the adequacy, content, or impact conclusions of the Draft EIR. No further response is required.

Comment Letter F11- Donnelly, Juanita (2)

Letter F11

From: [Juanita Donnelly](#)
To: [Anderson_FERC](#)
Subject: Anderson Dam project-wild boars
Date: Tuesday, October 31, 2023 5:31:46 PM

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Good afternoon,

We would like to express our concern about the wild boars that have increased in number since Anderson Lake was drained. In the past year, the boar population in Holiday Lake Estates has increased significantly, as has the destruction they are causing to our properties. We have lived in HLE for 5 1/2 years and never had any boar activity on our property until about a month ago. They have begun to destroy our lawn and damage our sprinklers in the tan bark areas of our yard. They are also destroying most of the lawns on our street. We are no longer able to safely walk our dog after dark for fear of running into the boars that are roaming our street; this is not an exaggeration. They are also destroying the lower meadow that our community just worked hard and spent a lot of money to redo, primarily to address the boar issue. We used to enjoy taking our dog there to play, but can no longer do so boar this since there is some much boar destruction and presence of boar feces with its bacteria which has serious health implications.

F11-1

F11-2

F11-3

We are concerned that nothing is being done or will be done until a person or domestic animal is hurt.

F11-4

When this issue was brought up at the recent community meeting, the answer we received was that this wasn't the responsibility of Valley Water, as the boar were introduced by the Spanish to California in the 1600's. While a good California history lesson it may be, we're respectfully requesting that you partner with the homeowners to find a solution to this problem before it leads to loss of life. The boar of whom we are speaking are large wild animals which are capable of killing not only domestic pets but also humans.

F11-5

If you need further information, including pictures of the property destruction, please let us know.

Thank you for your consideration of this matter.

George and Juanita Donnelly
17428 Blue Jay Drive

Responses to Comment Letter F11

Response to Comment F11-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F11-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly and adversely result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods, including safety concerns related to aggressive pigs. The existing conditions described in this comment are consistent with the description of baseline conditions with respect to feral pigs discussed in Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, and 3.5-90 of the Final EIR. Therefore, the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to hazards.

Response to Comment F11-3

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods, including the spread of disease through feces. Valley Water acknowledges that feral pigs have damaged the turf in the lower meadow area, and that feral pigs and their feces could cause human health concerns. However, these conditions are part of the CEQA baseline for ADSRP construction, as discussed in Draft Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, and 3.5-90 of the Final EIR.

Therefore, the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to hazards.

Response to Comment F11-4

See Response to Comment F11-2 and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. As discussed therein, Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for reasons discussed in further detail in *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F11-5

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and to research and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F12

Response to Comment F12-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

While the existing damages to the commenter's property are not a direct or indirect result of the Project and therefore are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F12-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods, including the spread of disease or odors through feces. Therefore, the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to feral pig feces.

Response to Comment F12-3

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Response to Comment F12-4

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Response to Comment F12-5

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. As discussed therein, there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions.

While mitigation measures are not required, for informational purposes, Valley Water has considered several existing feral pig management options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for reasons discussed in further detail in *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F13

Response to Comment F13-1

See *Master Response 5 – Impacts of FOC and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir which don't involve crossing the dewatered reservoir.

The Project would not indirectly and adversely affect water quality of the proximate sensitive riparian and water areas due to changes in feral pig populations in the Project Area. Likewise, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods, including the spread of disease or safety concerns related to aggressive pigs.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOC and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F13-2

See *Master Response 5 – Impacts of FOC and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. As discussed therein, there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

As discussed under Response to Comment O2-4, FOC is considered a separate project under CEQA and is necessary to prevent or mitigate against catastrophic dam failure. The Draft EIR is not required to evaluate existing conditions or impacts from separate projects and is only required to evaluate changes from existing conditions that would result from construction and operation of the Project. FOC was determined to be eligible for a Statutory Exemption under Public Resources Code Section 21080 (b)(4) and CEQA Guidelines Section 15269 (c) that are for specific actions necessary to prevent or mitigate an emergency. A Notice of Exemption for FOC was filed in June 2020.

While Project mitigation measures are not required related to feral pigs, for informational purposes, Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While none of these are feasible for reasons outlined further in the master response, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F14

Response to Comment F14-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Response to Comment F14-2

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Response to Comment F14-3

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Due to the changes discussed in Master Response 4, making changes to existing physical barriers in Rosendin Park is not necessary.

Response to Comment F14-4

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during

Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Response to Comment F14-5

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Response to Comment F14-6

See Response to Comment F14-5 and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, for a discussion regarding while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F14-7

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Furthermore, seasonal variability in abundance of feral pigs in Holiday Lake Estates and Jackson Oaks may result from a variety of factors, including water levels in the lake and variability in the locations of high-quality foraging areas.

Response to Comment F14-8

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. As discussed therein, there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

As discussed under Response to Comment O2-4, FOCP is considered a separate project under CEQA and is necessary to prevent or mitigate against catastrophic dam failure. The EIR is not required to evaluate existing conditions or impacts from separate projects and is only required to evaluate changes from existing conditions that would result from construction and operation of the Project. FOCP was determined to be eligible for a Statutory Exemption under Public Resources Code Section 21080 (b)(4) and CEQA Guidelines Section 15269 (c) that are for specific actions necessary to prevent or mitigate an emergency. A Notice of Exemption for FOCP was filed in June 2020.

While Project mitigation measures are not required related to feral pigs, for informational purposes, Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for reasons discussed in further detail in *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F14-9

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts of related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir which don't involve crossing the dewatered reservoir.

Regarding the CDFW response to complaints about feral pigs, Valley Water is unaware of any indication that CDFW has “pointed the finger” at Valley Water for the increase in feral pigs on the west side of Anderson Reservoir. Valley Water Senior Biologist Mason Holmes spoke with CDFW Wildlife Biologist Terris Kasteen on March 8, 2024, regarding CDFW responding to complaints of the increase in feral pigs on the west side of Anderson Reservoir. Kasteen confirmed that CDFW has not “pointed the finger” at Valley Water. Kasteen indicated that when CDFW receives human-wildlife conflict complaints from landowners, CDFW explains that CDFW does not trap feral pigs on landowners’ land, and CDFW explains available options to landowners, including landowners applying for a depredation permit. Kasteen agreed that there are multiple routes for feral pigs to access the west side of Anderson Reservoir. Kasteen pointed out that during good rain years, increased forage may lead to increased breeding and increased feral pig populations, and also that local movement of feral pigs into urban areas during drought may occur (T. Kasteen Pers. Comm. 2024).

Response to Comment F14-10

See Response to Comment F14-8 and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion regarding how Valley Water understands the community’s concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Nowhere in the EIR is it stated that there are 100 million dollars available for mitigation efforts. Nonetheless, Valley Water has considered many mitigation options including trapping and depredation and exclusionary fencing. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for various reasons discussed in further detail in *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, including current Valley Water policies against the use of firearms and the adverse impacts exclusionary fencing could have on special status and protected wildlife species, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F15

Response to Comment F15-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. As discussed therein, there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As a result, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While Project mitigation measures are not required related to feral pigs, for informational purposes, Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While none of these are feasible for reasons outlined further in the master response, Valley Water will continue to work with other agencies, and consider options for region-wide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F15-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Response to Comment F15-3

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs, and the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to safety and hazards.

Responses to Comment Letter F16

Response to Comment F16-1

While existing damages are not a direct or indirect result of the Project and, as such, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of the options for feral pig management. As discussed therein, Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Additionally, pursuant to CEQA Guidelines Section 15131, economic or social effects of a Project shall not be treated as a significant effect on the environment. As such, EIR analysis of a project's impacts on property values is not required.

Response to Comment F16-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs, and the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to safety and hazards.

Comment Letter F17- McCulloch, Scott and Christy**Letter F17**

From: [Christy E McCulloch](#)
To: [Anderson_FERC](#)
Cc: [sarahannshipp@gmail.com](#); [scott mcculloch](#)
Subject: Anderson Lake EIR wild boar concerns- October 2023
Date: Wednesday, November 1, 2023 12:09:52 PM

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

We have lived in Morgan Hill Holiday Lake Estates for 13 years and never had issues or sighting of wild boar until the lake was drained. We've seen 3 neighbors on our very small block (Blue Grass Court) alone suffer thousands of dollars of damage to their lawns last fall and this fall because of these wild boar. We have seen them nightly at the HOA funded "lower meadow" area which was already very expensive to have repaired last year. They are digging it up again this year! You can see around 10-20 pigs at the HOA lower meadow almost every night after sun down this month (October 2023). We would like to see this problem addressed as soon as possible.

Thank you for your consideration,

Scott and Christy McCulloch

NOTICE TO RECIPIENT: If you are not the intended recipient of this e-mail, you are prohibited from sharing, copying, or otherwise using or disclosing its contents. If you have received this e-mail in error, please notify the sender immediately by reply e-mail and permanently delete this e-mail and any attachments without reading, forwarding or saving them. v.173.295
Thank you.

F17-1

Responses to Comment Letter F17

Response to Comment F17-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir. There is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the project area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F18

Response to Comment F18-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Additionally, pigs may have also entered neighborhoods west of Anderson Reservoir from the south, from areas that are on the west side of Coyote Creek. Groups of “up to 20 at a time” were recorded during 2018 surveys conducted for Santa Clara County Parks’ development of a Natural Resources Management Plan for Coyote Canyon, located within 0.6 mile south of the Holiday Lakes Estates neighborhood (H. T. Harvey & Associates 2019). There are ample pathways by which pigs could have dispersed from Coyote Canyon to neighborhoods without having to cross either Coyote Creek or Anderson Reservoir.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community’s concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F18-2

Valley Water understands the community’s concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. As discussed therein, there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While Project mitigation measures are not required related to feral pigs, for informational purposes, Valley Water has considered several options, including funding the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While neither of these are

feasible due to the lack of regional trapping and depredation programs that Valley Water could fund and Valley Water's existing policy against the use of firearms on Valley Water property, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F19

Response to Comment F19-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Response to Comment F19-2

See Response to Comment F19-1 and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, for a discussion regarding while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F19-3

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs, and the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to safety and hazards.

Response to Comment F19-4

Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. As discussed therein, there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While Project mitigation measures are not required related to feral pigs, for informational purposes, Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for reasons discussed in further detail in Master Response 5, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F20

Response to Comment F20-1

See *Master Response 5 – Impacts of FOC and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

While existing damages are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOC and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F20-2

See *Master Response 5 – Impacts of FOC and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods. Therefore, the Draft EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to safety and hazards.

Response to Comment F20-3

See *Master Response 5 – Impacts of FOC and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. As discussed therein, there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While Project mitigation measures are not required related to feral pigs, for informational purposes, Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While exclusion fencing and having Valley Water directly undertake

trapping and depredation are infeasible for reasons discussed in further detail in Master Response 5, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F20-4

See Response to Comment F20-3 for a discussion regarding how there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While Project mitigation measures are not required related to feral pigs, for informational purposes, Valley Water has considered several options, including the installation of pig exclusion fences on Valley Water-owned property in the Project Area. However, due to the regional nature of the pig's presence and the adverse effects the exclusionary fencing could have on other wildlife species, this is not a feasible option. Creating a steep trench in the middle of Lake Anderson, as the commenter suggests, could result in entrapment of native animals, including special-status species and would, thus, be infeasible. Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F20-5

Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Comment Letter F21- Raissi, Jo Ann

Letter F21

From: jraissi@aol.com
To: [Anderson_FERC](#)
Subject: Pig invasion in HLE/JO
Date: Wednesday, November 1, 2023 9:07:33 AM

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Hello,

My husband and I have lived at 17045 Copper Hill Drive since purchasing our home here in Morgan Hill in June of 1979. We live across from the Lower Meadow, open space in Holiday Lake Estates. We have never had fences around our property until this year and over all the years living here never had any sighting of pigs on or near our property until this year when the lake was drained to retrofit the dam. We had extensive damage to our landscaping from pigs, especially our lawn area on the side and back of the property. We have spent a considerable amount of money since then to fence the property and to re-landscape these areas. This expense could have been avoided by measures to keep the pig population from crossing the exposed lakebed. We hope some reimbursement will be forthcoming to compensate for this major oversight.
Thank you for help with this matter.

F21-1

F21-2

Jo Ann Raissi
17045 Copper Hill Drive
Morgan Hill, CA. 95037
408-779-1796

[Sent from the all new AOL app for iOS](#)

Responses to Comment Letter F21

Response to Comment F21-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

While existing damages to landscaping are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F21-2

Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. As discussed therein, there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While Project mitigation measures are not required related to feral pigs, for informational purposes, Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for reasons discussed in further detail in *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS

on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

The comment regarding reimbursement request for existing damages done by feral pigs does not pertain to the adequacy, content, or impact conclusions of the Draft EIR, and no further response is necessary.

Responses to Comment Letter F22

Response to Comment F22-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

While existing damages to landscaping are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. As discussed in Master Response 5, Valley Water has considered whether the installation of pig exclusion fencing would be a feasible, effective means of reducing existing problems associated with feral pigs in the vicinity of Anderson Reservoir. However, Valley Water determined that the installation of pig exclusion fencing could present impediments to movement by native wildlife, and fencing would not be an effective long-term solution unless it completely surrounded an area (e.g., Holiday Lake Estates), as feral pigs can enter the neighborhood from multiple directions and pathways. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for reasons discussed in further detail in Master Response 5, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F23

Response to Comment F23-1

See *Master Response 5 – Impacts of FOCPP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

While existing damages to landscaping are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCPP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F23-2

See *Master Response 5 – Impacts of FOCPP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, since the Project would not worsen the existing presence of feral pigs the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods. Therefore, the Draft EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to safety and hazards.

Response to Comment F23-3

See *Master Response 5 – Impacts of FOCPP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. As discussed therein, there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While Project mitigation measures are not required related to feral pigs, for informational purposes, Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While exclusion fencing and having Valley Water directly undertake

trapping and depredation are infeasible for reasons discussed in further detail in *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F24

Response to Comment F24-1

See Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence

Furthermore, seasonal variability in abundance of feral pigs in Holiday Lake Estates may result from a variety of factors, including water levels in the lake and variability in the locations of high-quality foraging areas.

While existing damages to landscaping are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies, and consider options for region-wide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F24-2

See Response to Comment F24-1 and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of the Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Responses to Comment Letter F25

Response to Comment F25-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

While existing damages to landscaping and neighborhood are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F25-2

While Valley Water cannot implement measures to deter feral pigs on behalf of the Holiday Estates HOA, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of the options for feral pig management. As discussed therein, Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for reasons discussed in further detail in *Master Response 5*, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F26

Response to Comment F26-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

While existing damages to landscaping and neighborhood are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F26-2

The commenter's perspective that there have not been public safety issues related to feral pigs is acknowledged.

Response to Comment F26-3

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of the options for feral pig management. As discussed therein, Valley Water has considered several options, including the installation of pig exclusion fences, which ultimately were deemed infeasible due to the adverse effects they could have on special-status wildlife species. Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F26-4

Valley Water acknowledges the perspective that measures to eradicate or exclude pigs from Holiday Lake Estates may not represent a good expenditure of funds. As discussed under Response to Comment F26-3 and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, Valley Water has considered several options, including the installation of pig exclusion

fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for reasons discussed in further detail in Master Response 5, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F27

Response to Comment F27-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses that the increase in feral pig numbers at Jackson Oaks has coincided with population increases throughout the region as feral pig populations continue to grow and expand, and that there are multiple pathways (some of which do not involve pigs moving through the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Jackson Oaks.

While existing damages to landscaping are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F28

Response to Comment F28-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Furthermore, as stated in *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods. Therefore, the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to safety and hazards.

While existing damages to landscaping are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for region-wide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F29

Response to Comment F29-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

The existing presence of feral pigs in the area, including their impact on the environment and potential hazards to humans, is addressed in Section 3.5, *Biological Resources – Wildlife and Terrestrial Resources*, on pages 3.5-29, 3.5-30, 3.5-84, 3.5-85, 3.5-90, and 3.5-205 of the Final EIR. Because the Project would not worsen the existing presence of feral pigs, the Project would not indirectly and adversely affect habitat that is considered sensitive or that supports species of special status or concern or other biological resources protected under CEQA and CEQA Guidelines (e.g., wetlands) due to the presence of feral pigs. Likewise, the Project would not indirectly result in hazards impacts with regard to potential interaction between feral pigs and humans in proximate neighborhoods, including the safety concerns related to aggressive pigs.

While existing damages to landscaping are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F29-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. As discussed therein, there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While Project mitigation measures are not required related to feral pigs, for informational purposes, Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned

property in the Project Area. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for reasons discussed in further detail in Master Response 5, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F30

Response to Comment F30-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

While existing damages to landscaping are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F30-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. As discussed therein, there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While Project mitigation measures are not required related to feral pigs, for informational purposes, Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for reasons discussed in further detail in *Master Response 5*, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

The comment regarding reimbursement request for existing damages done by feral pigs does not pertain to the adequacy, content, or impact conclusions of the Draft EIR, and no further response is necessary.

Responses to Comment Letter F31

Response to Comment F31-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. While existing damages to landscaping are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F31-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, for a discussion regarding how since the Project would not worsen the existing presence of feral pigs, the Project would not indirectly result in hazards with regard to the interaction between feral pigs and humans in proximate neighborhoods. Therefore, the EIR adequately addresses potential impacts related to feral pigs, including indirect effects related to safety and hazards.

Response to Comment F31-3

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Response to Comment F31-4

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of the options for feral pig management. As discussed therein, there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While Project mitigation measures are not required related to feral pigs, for informational purposes, Valley Water has considered several options. Valley Water has explored the option to provide funding for feral pig trapping and depredation efforts within Santa Clara County,

consistent with SB 856 (2022), and implementing CDFW regulations expected to be adopted in 2024. Valley Water has considered the option of directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. This option would not be effective because, as discussed previously, the feral pig problem in the Project Area vicinity is a regional problem that would not be resolved by just temporarily removing pigs from Valley Water property; feral pigs would likely travel into other surrounding areas not owned by Valley Water. In addition, Valley Water has a workplace violence policy prohibiting the carrying or use of firearms by Valley Water staff at any time. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for reasons discussed in further detail in Master Response 5, Valley Water will continue to work with other agencies, and to research and consider options for region-wide solutions to address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F32

Response to Comment F32-1

See *Master Response 4 – Impacts of FOCP and ADSRP related to Rosendin Park Area Closures* for a detailed description of the revisions to the proposed closures of the Rosendin Park Area. As discussed therein, due to the location of proposed dam reconstruction activities within close proximity to the Rosendin Park Area, the Draft EIR impact analyses conservatively assumed that the entire park would be closed through the entire construction period. However, in response to public comments, Valley Water has decided to keep most trails in Rosendin Park open during Project construction, aside from during initial blasting activities for 3-4 months when the entire park would be closed, and subsequent blasting activities during Years 4, 5, and/or 6 when the Lakeview, Grey Pine, Rosendin, and Cochrane Trails would be closed.

Comment Letter F33- Wood, Chris (2)

Letter F33

From: [Chris Wood](#)
To: [Anderson_FERC](#)
Subject: John Varula's comments regarding pigs in Holiday Lake estates and Jackson Oaks
Date: Thursday, October 26, 2023 5:32:11 PM

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

To whom it may concern:

I am a resident of Holiday Lake Estates (HLE) in Morgan Hill CA. 95037, living at 17420 Lakeview Drive. I am writing Valley Water in regards to your HLE/Jackson Oaks (JO) Valley Water Board Director and Chairman John Varula's remarks concerning our infestation of wild pigs after Lake Anderson was drained for Seismic Rehabilitation reasons.

F33-1

Mr. Varula's continuing positions is: "The pigs were always there and our draining the lake has nothing to do with any pig infestation." This statement is a continuing untruth he is spewing out to avoid any liability that Valley Water may accrue due to draining the lake. Here are the facts:

- Yes, wild pigs have always been *near*, but *not in* HLE of JO.
 - When the lake was full the pigs could not cross it since wild boars *cannot swim and there were NO pigs roaming in HLE or JO.*
 - I have lived here for over 40 years and never saw one in HLE until the lake was drained.
- This simple fact makes it clear that there were **no** wild boars in HLE of JO prior to draining the lake, but now there are several sounders of wild pigs feeding in HLE and JO; destroying lawns and gardens, trapping people in their homes, or in one case a woman in her car for several hours.

F33-2

I would request that Valley Water take full responsibility for these pigs and put in place a plan to mitigate them. There are several pig trappers in the South Valley area who can do this.

F33-3

I do not think that a municipal agency should operate this way; lying to the public, causing damage to many, many homeowners as a direct result of your actions, and then denying publicly that it your responsibility to mitigate them. I am aware that Valley Water has a significant fund for these sorts of issues and I would ask that you use it protect our private property from continuing, expensive damage.

F33-4

Very Truly Yours,

F33-5

Leighton C. Wood Jr.

--

=====
 Chris Wood
lw85381@yahoo.com
 (408) 779-2363 Landline
 (408) 218-7313 Mobile
 =====

Responses to Comment Letter F33

Response to Comment F33-1

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

Response to Comment F33-2

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, wild pigs can swim and have been documented swimming across the reservoir before it was drained. In addition, the increase in feral pig numbers at Holiday Lake Estates and Jackson Oaks has coincided with population increases throughout the region as feral pig populations continue to grow and expand, and that there are multiple pathways (some of which do not involve pigs moving through the dewatered reservoir) by which feral pigs may have reached (and may continue to move in and out of) Holiday Lake Estates and Jackson Oaks.

While existing damages to landscaping are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F33-3

See *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of Project direct and indirect impacts related to feral pig populations and options for feral pig management. As discussed therein, there is no substantial evidence that the Project would result in a significant impact by causing a substantial increase in feral pig activity or numbers in or near the Project Area, or in facilitation of pig dispersal into new areas where they are not already present under baseline conditions. As such, no mitigation measures are necessary to reduce Project impacts related to feral pigs.

While Project mitigation measures are not required related to feral pigs, for informational purposes, Valley Water has considered several options, including the installation of pig exclusion fences, funding of local and regional efforts for the trapping and depredation of feral pigs in

Santa Clara County, and directly undertaking trapping and depredation on Valley Water-owned property in the Project Area. While exclusion fencing and having Valley Water directly undertake trapping and depredation are infeasible for reasons discussed in further detail in Master Response 5, Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Response to Comment F33-4

See Response to Comments F33-1, F33-2, and F33-3 and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig* for a discussion of the ways in which pigs could have crossed the reservoir, even before it was drained, and the non-Project related measures being considered by Valley Water to address this existing issue. Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation.

Response to Comment F33-5

See Response to Comment F33-3 and *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence* for a discussion of the options for feral pig management. Valley Water has considered several mitigation strategies and will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

Responses to Comment Letter F34

Response to Comment F34-1

See Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence for a discussion of Project direct and indirect impacts related to feral pig populations. As discussed therein, while the drawdown of Anderson Reservoir made it easier for pigs to cross from one side of the reservoir to the other, there is strong evidence that the increase in numbers and distributions of feral pigs is part of a much larger, regional (even Statewide) trend. In addition, there is documentation from other agencies and online sources that the pigs could have swum across the reservoir before dewatering, and there are alternate routes by which the pigs could access the neighborhoods west of Anderson Reservoir that do not involve crossing the dewatered reservoir.

While existing damages to landscaping are not a direct or indirect result of the Project and, therefore, are not required to be addressed in the EIR, Valley Water understands the community's concerns regarding the presence of feral pigs currently and during Project construction and acknowledges the request to work with the community regarding the situation. Valley Water will continue to work with other agencies and consider options for regionwide solutions to help address the feral pig issue. For example, please refer to *Master Response 5 – Impacts of FOCP and ADSRP on Feral Pig Presence*, which discusses an agreement between Valley Water and the USDA APHIS WS by which Valley Water will provide funding for feral pig management conducted by USDA APHIS WS on selected Valley Water lands, including Anderson Reservoir (Valley Water and USDA APHIS WS 2024).

7.4 References

- AECOM. 2021. Update to June 30, 2021 memo on Sediment Deposition in Coyote Creek above Ogier Ponds and Discharge to Estuary. Prepared for Santa Clara Valley Water District.
- AL.com. 2016. Pigs don't fly, but they swim. <https://www.youtube.com/watch?v=SVbbM9EWtn4>.
- Alcantar, Carlos. "Re: Valley Water Questions Regarding Possible Evac Routes." Received by Wendy Young and Andres Acevedo, December 18, 2024.
- CALFIRE. 2007. 2007 Lick Fire. Available at: <https://www.fire.ca.gov/incidents/2007/9/3/lick-fire>. Accessed on April 21, 2023.
- .2011. McDonald Fire Update. <https://www.fire.ca.gov/incidents/2011/7/21/mcdonald-fire> Accessed March 4, 2024.
- .2021. 2020 Santa Clara Unit Lightning Complex. Available at: <https://www.fire.ca.gov/incidents/2020/8/16/scu-lightning-complex>. Accessed on April 21, 2023.
- .2022. SRA FHSZ Rollout Application. <https://calfire-forestry.maps.arcgis.com/apps/webappviewer/index.html?id=fd937aba2b044c3484a642ae03c35677>. Accessed March 14, 2024.
- _____. 2023a. Cochrane Fire. <https://www.fire.ca.gov/incidents/2023/8/16/cochrane-fire>. Accessed March 14, 2024.
- _____. 2024. Park Fire. <https://www.fire.ca.gov/incidents/2020/7/4/park-fire>. Accessed March 14, 2024.
- California Bumble Bee Atlas. 2023. <https://www.cabumblebeeatlas.org/project-highlights.html>
- Carter, K. 2008. Effects of temperature, dissolved oxygen/total dissolved gas, ammonia, and pH on salmonids: implications for California's North Coast TMDLs. Appendix 4. Prepared by
- CDFW. 2024a. Wild Pig Management. <https://wildlife.ca.gov/Conservation/Mammals/Wild-Pig>. Accessed January 9, 2024.
- _____. 2024b. California Wild Pig Depredation Permits Issued, Annual Average 2017-2021. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=206138&inline>. Accessed January 9, 2024.
- CEFWG (California Environmental Flows Working Group). 2021. California Environmental Flows Framework. Version 1.0 Draft Final March 2021.
- Eisner, Rosie. "Re: Anderson Dam Seismic Retrofit Project." Received by Tiffany Chao, December 23, 2024.
- Flosi et al. 2010. CDFW California Salmonid Stream Habitat Restoration Manual. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=22660>. Accessed September 2024.

- Garcia-Rossi, D. and D. Hedgecock. 2002. Provenance Analysis of Chinook Salmon (*Oncorhynchus tshawytscha*) in the Santa Clara Valley Watershed. Bodega Marine Laboratory, University of California at Davis, Bodega Bay, California.
- Gard. 2023. Ogier Ponds Conceptual Design. Prepared by California Department of Fish and Wildlife staff. January 17, 2023.
- Google Earth. 2023. Anderson Reservoir area, imagery date 11/22/2023. Image copyright 2023 Airbus.
- H.T. Harvey & Associates. 2019. Coyote Canyon Natural Resource Management Plan. February. Prepared for the 15 Santa Clara County Parks & Recreation Department
- ICF International. 2012. Final Santa Clara Valley Habitat Plan. Santa Clara County, California. Prepared by the City of Gilroy, City of Morgan Hill, City of San José, County of Santa Clara, Santa Clara Valley Transportation Authority, and Santa Clara Valley Water District. August. <http://www.scv-habitatplan.org>
- . 2016. Coastal Multispecies Recovery Plan: California Coastal Chinook Salmon ESU, Northern California Steelhead DPS and Central California Coastal Steelhead DPS.
- . 2023. NMFS *Anadromous Salmonid Passage Facility Design Manual* <https://www.fisheries.noaa.gov/s3//2023-02/anadromous-salmonid-passage-design.pdf>. Accessed September 2024.
- Napolitano, M. 2014. Lagunitas Creek Watershed Fine Sediment Reduction and Habitat Enhancement Plan. San Francisco Bay Region Water Quality Control Board.
- National Wildfire Coordinating Group. 2006. Introduction to Wildland Fire Behavior. https://www.tn.gov/content/dam/tn/commerce/documents/ffc/certification_applications_forms/NWCG-S-190-Student-Workbook.pdf. Accessed January 2024.
- Newcombe, C. P., and J. O. T. Jensen. 1996. Channel suspended sediment and fisheries: a synthesis for quantitative assessment of risk and impact. *North American Journal of Fisheries Management* 16: 693–727.
- Ponce, Jennifer. Personal Communications April 22, 2024.
- Ross, Eric. “Re: Request for Information Regarding CWFPP Annex 18.” Received by Tiffany Chao, December 19, 2024.
- Rust, S. 2022. Feral pigs are biological time bombs. Can California stem their ‘exponential’ damage? *Los Angeles Times*, April 1, 2022
- San Francisco Bay Regional Water Quality Control Board. 2005. 11 Diazinon and Pesticide-Related Toxicity in Bay Area Urban Creek. http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/urban_crksdiazinon/b_final_staff_report.pdf. Accessed August 12, 2023
- _____. 2019. Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin. https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/basinplan/web/bp_ch3.html

- Santa Clara County. 2016. The Santa Clara County Community Wildfire Protection Plan. Available at: Accessed on April 21, 2023.
- _____. 2023. The Santa Clara County Community Wildfire Protection Plan Frequently Asked Questions. Available at: <https://sccfiresafe.org/cwpp/faqs/>. Accessed on November 20, 2024
- _____. 2024. Annex 18 (County of Santa Clara Department of Parks and Recreation) to the Community Wildfire Protection Plan. Available at: Available at: <https://plandev.sccgov.org/FMO>. Accessed on April 21, 2023
- Santa Clara County Office of Emergency Management. 2019. Emergency Operations Plan Wildfire Annex. Available at: [https://files.santaclaracounty.gov/exjcpb1566/migrated/Wildfire%20Annex%20\(2022\)%20FINAL.pdf?VersionId=Goz2jZLp_4zT5hbGmJuRDvKp3ePFSYKP](https://files.santaclaracounty.gov/exjcpb1566/migrated/Wildfire%20Annex%20(2022)%20FINAL.pdf?VersionId=Goz2jZLp_4zT5hbGmJuRDvKp3ePFSYKP). Accessed November 20, 2024.
- Santa Clara County Planning Office. 2011. Guide to Evaluating Oak Woodlands Impacts.
- Santa Clara Valley Transportation Authority (VTA). 2018. Santa Clara Countywide Bicycle Plan. Microsoft Word - Santa Clara County Bicycle Plan - Final Plan - 05.23.2018 - 2. Accessed January 2025.
- Stillwater Sciences. 2020. Anderson Dam Tunnel Project: Fish Rescue and Relocation Plan Supplement. Prepared by Stillwater Sciences, Berkeley, California for Santa Clara Valley Water District, San Jose, California.
- .2024. Coyote Creek Suspended Sediment Monitoring. Results of monitoring water years 2021, 2022, and 2023. Technical Report. Prepared by Stillwater Sciences, Morro Bay, California for Santa Clara Valley Water District, San Jose, California.
- T. Kasteen Pers. Comm. 2024. Conversation between Mason Holmes of Valley Water and Terris Kasteen of CDFW, on March 8, 2024.
- TODD Groundwater. 2017. Ogier Ponds Recharge Feasibility Report. Prepared by TODD Groundwater, Alameda, California for Santa Clara Valley Water District.
- Tour, Cole Watkins. 2018. Feral Pigs Swimming Across the Savannah River. https://www.facebook.com/ColeWatkinsTours/videos/feral-pigs-swimming-across-the-savannah-river/459966084530660/?locale=da_DK
- URS. 2020a. Anderson Dam Tunnel Project Sediment Transport Modeling. Technical Memorandum, Version #2.1. Prepared by URS Corporation, Oakland, California for Santa Clara Valley Water District, San Jose, California.
- .2020b. Outlet Works Basis of Design, Revised 60% Design, Anderson Dam Seismic Retrofit Project. Version 5, Final. May 15.
- Valley Water. 2014. Anderson Dam Seismic Retrofit 2013-2014 Rare Plant Survey Report. July. Prepared by H. T. Harvey & Associates
- .2019. 2019. 2018 Coyote Creek Watershed Fisheries Monitoring. Prepared by Valley Water. Prepared on April 11, 2019.

.2020a.2020a. 2019 Coyote Creek Watershed Fisheries Monitoring. San Jose, California.

.2020b.Fish Assemblage of Anderson Reservoir 2017 and 2019. San Jose, California.
Prepared on April 17, 2020.

. 2021a. Anderson Dam Seismic Retrofit – 2020-2021 Supplemental Special-Status Plant Survey Results. November. Prepared by H. T. Harvey & Associates

.2021b. 2021 Coyote Creek Watershed Fisheries Monitoring. San Jose, California.

.2021c. Anderson Dam and Reservoir FERC Order Compliance Project Water Quality Certification Condition 8: Mercury, Diazinon, and PCBs Plan.
https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_certificate/docs/ferc5737/focp_wqc_2020.pdf. (accessed September 2024).

.2021d. Anderson Reservoir Outlet Fyke Trapping Operations Report. San Jose, California.

.2021e.Coyote Creek 2019-2020 Adult Salmonid Migration Monitoring Using the Vaki Riverwatcher Passive Monitoring System at the Coyote Percolation Dam Fish Ladder. San Jose, California.

.2021f. 2021 Juvenile Oncorhynchus mykiss Rearing Monitoring in Coyote Creek. San Jose, California.

.2021g 2023a. Outlet Works Basis of Design: Appendix B, G, J. Prepared by URS.
Prepared on May 27, 2021.

.2022a. 2022 Coyote Watershed Fisheries Monitoring. San Jose, California.

.2022b. Valley Water. 2022. eDNA sampling – lower Coyote Creek tributaries October 17, 2022. Prepared by Valley Water, San Jose, California.

. 2023a 2023b. Fish and Aquatic Habitat Collaborative Effort [FAHCE] Final Environmental Impact Report. (SCH No. 2015022008.) Santa Clara County, CA.

. 2023b 2023c. ADSRP Construction Operations Technical Memorandum. August. Santa Clara Valley Water District (Valley Water). 2023. Administrative Draft Biological Evaluation for National Marine Fisheries Service Listed Species And Designated Critical Habitat Potentially Affected By The Anderson Dam Program.

. 2024a. Coyote Creek Watershed Monitoring Program Results 2022-2023. Prepared by Valley Water, Environmental Mitigation and Monitoring Unit, San Jose, California.

.2024b. FERC Order Compliance Project for Anderson Reservoir and Dam Crotch's Bumble Bee Avoidance Plan. April. Prepared by H. T. Harvey & Associates.

.2024c. Final Biological Evaluation for National Marine Fisheries Service Listed Species and Designated Critical Habitat Potentially Affected by the Anderson Dam Program. February. Prepared by Stillwater Sciences.

.2024d. Surface Water and Data Portal. Available at:
<https://alert.valleywater.org/?p=list&disc=f>.

Valley Water and USDA APHIS WS [U.S. Department of Agriculture Animal and Plant Health Inspection Service Wildlife Services]. 2024. Cooperative Service Agreement between Santa Clara Valley Water District (Cooperator) and United States Department of Agriculture Animal and Plant Health Inspection Service (APHIS) Wildlife Services (WS). WSA Agreement Number 25-730607509-RA.

Chapter 8

PARTIALLY RECIRCULATED DRAFT EIR COMMENTS AND RESPONSES

8.1 Introduction

This chapter contains public comments received on the Partially Recirculated Draft EIR and responses to such public comments. The Partially Recirculated Draft EIR was distributed for public review and comment on August 5, 2024. The public review and comment period ended on September 20, 2024. This chapter contains copies of the comment letters received during the public review process and responses to those comments.

A total of 11 comment letters or other written communications such as emails (hereafter collectively referred to as “comment letters”) was received on the Partially Recirculated Draft EIR before the close of the public review and comment period.

Table 8-1 provides a list of all comments received, including the name of the public agency or individual person that submitted the letter and the date of the letter. Each comment letter also has been assigned an identification number, as indicated in **Table 8-1**.

This chapter has two main sections following this introduction. Section 8.2, *Master Responses to Comments*, contains responses addressing overarching commenter themes. Section 8.3, *Responses to Comments*, contains individual comments followed by responses to each individual comment. Where a comment resulted in a change to the Draft EIR text, the text was revised in underline and strikeout format, and the change is shown in the response to that comment.

Table 8-1 List of Comment Letters and Associated Commenters

Comment Letter	Commenter
Public Agency (A)	
A1	California Department of Transportation, Yunsheng Luo
A2	City of San Jose Parks, Recreation, and Neighborhood Services Department
Individual Person (P)	
P1	Anderson, Monica
P2	David-Malig, Dorothy
P3	David-Malig, Dorothy
P4	Lopez, Anthony
P5	Macpherson, William and Kimberlee
P6	Macpherson, William and Kimberlee
P7	Macpherson, Kim
P8	Tiscareno, Maria

Comment Letter**Commenter**

P9

White, Jean-Marie

8.2 Master Responses to Comments

8.2.1.1 *Summary of Comments*

Several comments were received on the Partially Recirculated Draft EIR related to health risks to the Holiday Lake Estates community, specifically relating to impacts on human health from Project activities and the EIR's focus on the maximally exposed individual (MEI) to assess human health risks. Commenters expressed concern that health risks to the broader Holiday Lake Estates community, including vulnerable populations, are not adequately evaluated, particularly given their proximity to Project activities. Commenters expressed concerns with several Project activities including establishment of access and haul roads, material hauling, stockpiling, and staging, among others. Commenters requested an expanded Health Risk Assessment (HRA), rather than focusing solely on the MEI.

8.2.1.2 *Master Response to Comment*

The potential health risks associated with TAC and PM_{2.5} emissions from the Seismic Retrofit Construction are evaluated in detail under Impact AQ-3 on pages 3.3-47 and 3.3-48 of the Final EIR, including impacts to the MEI. The nearest MEI to Holiday Lake Estates, which is for the acute hazard index (HI), is located at Receptor R-9, approximately 0.5-mile west from the nearest residence in Holiday Lake Estates. It should be noted that none of the MEI's for the Project are not located in the Holiday Lake Estates neighborhood, as shown in Figure 8 in Appendix E (*Air Quality, Greenhouse Gas and Health Risk Assessment Technical Report*). While some residents in the neighborhood may experience exposure, not all individuals would be significantly affected. A comprehensive evaluation of health risks to each resident in the vicinity of a project is not required under CEQA in order to adequately disclose a project's human health risks; however, in response to community concerns, additional health risk modeling specific to Holiday Lake Estates has been conducted, summarized below and in **Table 8-2** and depicted in **Figure 8-1a** through **Figure 8-1d**.

- **Cancer Risk:** Unmitigated Project construction is estimated to result in an excess cancer risk in the Holiday Lakes Estates neighborhood of up to 46 in a million, exceeding the BAAQMD significance threshold of 10 in a million. However, with implementation of Mitigation Measures AQ-1 (Implement Construction Criteria Air Pollutants Reduction Measures), AQ-2 (Implement Construction Blasting Fugitive Dust Emissions Reduction), and AQ-3 (Implement BAAQMD Enhanced Construction BMPs), the cancer risk would be reduced to 9.8 in a million, below the CEQA significance threshold.
- **Acute HI:** Unmitigated Project construction is estimated to result in an acute HI in the Holiday Lakes Estates neighborhood of up to 6.0, exceeding the significance threshold of 1.0. With implementation of Mitigation Measures AQ-1, AQ-2, and AQ-3, the acute HI

would be reduced to 1.5, above the CEQA significance threshold but not greater than the MEI (Receptor R-9).

- **Chronic HI:** Unmitigated Project construction is estimated to result in a chronic HI of 0.027 in the Holiday Lakes Estates neighborhood. With implementation of Mitigation Measures AQ-1, AQ-2, and AQ-3, the chronic HI would be reduced to 0.0088. Both unmitigated and mitigated values are below the CEQA significance threshold of 1.0.
- **Annual PM_{2.5} Concentration:** Unmitigated Project construction is estimated to result in an annual PM_{2.5} concentration of 0.072 µg/m³ in the Holiday Lakes Estates neighborhood. With implementation of Mitigation Measures AQ-1, AQ-2, and AQ-3, the concentration would be reduced to 0.064 µg/m³. Both unmitigated and mitigated concentrations are below the CEQA significance threshold of 0.3 µg/m³.

Table 8-2 Summary of Maximum Heath Risk to Holiday Lake Estates Neighborhood

	Cancer Risk (in a million) ¹	Chronic HI	Acute HI	PM _{2.5} concentration (µg/m ³)
Unmitigated	46	0.027	6.0	0.072
Mitigated	9.8	0.0088	1.5	0.064
BAAQMD Threshold of Significance	10	1	1	0.3
<i>Exceed Threshold?</i>	<i>No</i>	<i>No</i>	<i>Yes</i>	<i>No</i>

Notes:

The cancer risk, non-cancer chronic HI, non-cancer acute HI, and PM_{2.5} concentration were analyzed at the location of the maximum risk in the Holiday Lake Estates neighborhood.

¹The maximum mitigated cancer risk was selected at a receptor location on a building that was spatially averaged based on the closest grid receptors.

Figure 8-1a. Holiday Lake Estates Modeled Receptor Locations and Cancer Risk Results

Figure 8-1b. Holiday Lake Estates Modeled Receptor Locations and Chronic HI Results

Figure 8-1c. Holiday Lake Estates Modeled Receptor Locations and Acute HI Results

Figure 8-1d. Holiday Lake Estates Modeled Receptor Locations and PM_{2.5} Concentration Results

8.3 Responses to Comments

The agencies and individual persons who provided comments during the Partially Recirculated Draft EIR public review and comment period are listed in **Table 8-1**. In this section, the commenters' original written comment letters are provided and labeled with alphanumeric codes indicating each discrete comment for which a response to comment was provided. In accordance with CEQA Guidelines Section 15088(a), lead agencies must respond to Draft EIR comments raising "significant environmental issues." As such, the response to comments provided in this section are focused on environmental issues and information contained in the Partially Recirculated Draft EIR. The responses to comments are provided as a group following each respective labeled comment letter.

Responses to Comment Letter A1

Response to Comment A1-1

This comment is introductory and does not pertain to the adequacy, content, or impact conclusions of the Partially Recirculated Draft EIR. No further response is required.

Response to Comment A1-2

Valley Water intends to keep Caltrans informed about any initiatives related to addressing climate change and wildfire risks. Project changes addressed in the Partially Recirculated Draft EIR did not relate to climate change or wildfire; however, impacts associated with wildfire are addressed in Section 3.22, *Wildfire*, and in *Master Response 7 – Impacts of FOCP and ADSRP on Wildfire Risk* in Chapter 7. This comment does not pertain to the adequacy, content, or impact conclusions of the Partially Recirculated Draft EIR. No further response is required.

Response to Comment A2-1

This comment states that the commenter does not have comments on the Partially Recirculated Draft EIR. No further response is required.

Response to Comment P1-1

The commenter identifies several changes to the Project that they assert are introduced by the Partially Recirculated Draft EIR. While some of the changes identified are accurate, others are either incorrect or require clarification. The commenter's statements are addressed below individually:

- “The revised plan includes sustained construction activity in stockpile and staging areas near our homes.”
 - It is correct that staging and stockpile areas near Holiday Lake Estates (i.e., Staging Area 6 and Stockpile Areas K and M) would be used for dam excavation and replacement, requiring extended work hours. The usage durations and activities outlined in the Partially Recirculated Draft EIR include the use of Staging Area 6 in Years 1 through 7, Stockpile Area K in Years 2 through 6, and Stockpile Area M in Years 2 through 4, with two 10-hour shifts, Monday through Saturday, and limited Sunday work (see Section 2.2 of the Partially Recirculated Draft EIR).
- “Additionally, it introduces construction traffic on the Anderson Dam lakebed adjacent to Holiday Lake Estates residences, with at least 60,000 trips planned over 6.5 miles of unpaved roads.”
 - The total number of haul trips was revised in the Final EIR to 67,600. This increase was accounted for alongside other minor Project changes in the updated air quality technical analysis (Appendix E) and would not result in new or substantially more severe impacts to air quality or health risk. While the statement that these haul occur over 6.5 miles of in-reservoir access roads is accurate, this traffic is not newly introduced by the Partially Recirculated Draft EIR Project description changes. The location of these trips was described in the Draft EIR and the total number of trips was revised in the Final EIR.
- “The construction traffic speed is set at 25 mph, exceeding the 15 mph limit established by Best Management Practice (BMP) AQ-1 (Use Dust Control Measures).”
 - The speed limit for construction traffic on unpaved reservoir roads was adjusted in the Partially Recirculated Draft EIR from 15 mph to 25 mph, except in areas where naturally occurring asbestos (NOA) is present. This change was necessary to allow completion of the interim dam stages within the construction season each year, critical for public safety (see Response to Comment P40-2 in Chapter 7 for additional context).
- “Recent changes to the plan also involve an increase in the number of workers, extended project hours, and intensified activity near Holiday Lake Estates.”
 - While the Partially Recirculated Draft EIR does include an increase in workers and extended construction hours, the intensity of activities near Holiday Lake Estates remains unchanged from what was evaluated in the Draft EIR.

- “The project will operate up to 7 days a week, 13 hours a day, for a duration of 7 years.”
 - This is generally correct, but construction may extend up to 20 hours per day during some periods.
 - “Holiday Lake Estates is home to approximately 2,000 to 3,000 residents, including vulnerable populations such as children, the homebound, the elderly, and those with preexisting health conditions.”
 - The community is home to approximately 2,200 residents (NeighborhoodScout 2024).
 - The potential health risks associated with TAC and PM_{2.5} emissions from the Seismic Retrofit Construction are evaluated in detail under Impact AQ-3 on pages 3.3-47 and 3.3-48 of the Final EIR, including impacts to the MEI. While some residents in the neighborhood may experience exposure, not all individuals would be significantly affected. A comprehensive evaluation of health risks to each resident within a project vicinity is not required under CEQA to adequately disclose a project’s health risks; however, in response to community concerns, additional health risk modeling specific to Holiday Lake Estates has been conducted and is detailed in *Master Response 1 – Health Risk Assessment for Holiday Lake Estates*. As discussed therein, although the Project MEI is not located within the Holiday Lake Estates neighborhood, acute HI in the Holiday Lake Estates area would still exceed the threshold after mitigation (though remain lower than at the MEI), mitigation measures would reduce cancer risk below the significance threshold, and chronic HI and annual PM_{2.5} concentrations would remain below significance thresholds both before and after mitigation.

Response to Comment P1-2

The commenter states that the mitigated excess lifetime cancer risk, acute health risk (acute HI), and annual PM_{2.5} concentration associated with Project construction would exceed significance thresholds at the MEI. Valley Water acknowledges that even with implementation of mitigation measures, annual PM_{2.5} concentration and community health risks at the MEI are estimated to remain above the BAAQMD significance thresholds. The commenter makes a reference to Table K of the EIR regarding a summary of the health risks posed to the MEI. It is noted that Table K is in the *Air Quality, Greenhouse Gas and Health Risk Assessment Technical Report* (Appendix E) and provides the health risk summary for the Seismic Retrofit component of the Project. Cancer risk, chronic HI, acute HI, and PM_{2.5} concentration values without mitigation for the Seismic Retrofit construction can be found in Final EIR Table 3.3-15 and with mitigation in Table 3.3-16. The commenter incorrectly states that the unmitigated PM_{2.5} concentration is 1.78 µg/m³. As shown in Table 3.3-15, the unmitigated PM_{2.5} concentration reported in the Partially Recirculated Draft EIR was 1.7 µg/m³ for the Seismic Retrofit component, which in the Final EIR has been further revised down to 0.77 µg/m³. It should also be noted that cancer risk, chronic HI, acute HI, and PM_{2.5} concentration values for the overall Project are shown in Final EIR Table 3.3-23 (unmitigated) and Table 3.3-24 (mitigated). Finally, it should also be noted that these values were updated during preparation of the Final EIR based on the results of remodeling conducted to capture minor changes in the Project design and schedule.

The Project would adhere to BMPs to reduce air quality and health risk impacts, specifically BMP AQ-1, which would require implementation of dust and air quality management measures, including implementation of BAAQMD's BMPs for dust suppression. CEQA requires lead agencies to consider all possible feasible mitigation to reduce impacts associated with the development of a project. As discussed in the Final EIR and summarized below, Valley Water has identified feasible mitigation measures to reduce air quality and health risk impacts to the extent practicable. Even so, health risk impacts would remain significant and unavoidable. Mitigation measures to reduce the health risk impacts associated with the Project are addressed in Section 3.3, *Air Quality*, of the Final EIR. As discussed therein, Mitigation Measures AQ-1, AQ-2, and AQ-3 would reduce air quality impacts and impacts to sensitive receptors from the Project, where feasible. Under Mitigation Measure AQ-1, the Project will comply with various measures to reduce air pollutant emissions during construction, including the use of Tier 4 equipment and use of newer model trucks. Under this measure, prior to any ground disturbing and construction activities, Valley Water and/or its contractor will implement construction-related criteria pollutant emission reduction measures and include all such requirements in applicable bid documents, purchase orders, and contracts with successful contractors demonstrating the ability to supply the compliant on- or off-road construction equipment for use (Final EIR page 3.3-35).

Additionally, Mitigation Measure AQ-2 would implement construction blasting fugitive dust emissions reduction measures, and Mitigation Measure AQ-3 would implement BAAQMD enhanced construction BMPs to further reduce construction-related emissions that exceed the BAAQMD's thresholds of significance. Specifically, Valley Water will require its construction contractors to comply with enhanced BMPs during construction, including the use of vegetative ground cover and soil stabilizer to further mitigate fugitive dust, as well as limiting the simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time.

In addition, implementation of Mitigation Measure GHG-1, described in Section 3.9, *Greenhouse Gas Emissions*, will require Valley Water and/or its construction contractors to use engine electrification and renewable fuels, where feasible. Use of such equipment, in addition to reducing greenhouse gas emissions, would also reduce community health risk impacts. As stated above, lead agencies under CEQA are required to implement all feasible mitigation measures. Since the use of electric or hybrid equipment and renewable diesel or biodiesel fuels will be subject to technical and economic feasibility findings by Valley Water as well as availability in the region prior to the commencement of construction activities, the amount of equipment pieces that would be electric or hybrid powered is unknown at this time, and the health risk assessment conservatively did not factor in any additional reductions in the health risk impact from use of such equipment.

With regards to the commenter's concerns regarding the establishment of unpaved roads on the lakebed and the resulting fugitive dust from vehicular and construction activities, the commenter is correct that this dust would contain fine particulate matter. However, unpaved roads on the lakebed were not a Project change included in the Partially Recirculated Draft EIR, but rather were part of the original Project described in the Draft EIR. As discussed under *Health Risk Assessment* in Section 3.3.3, *Methodology and Approach to Impact Analysis*, on page 3.3-25 of the Final EIR, annual PM_{2.5} concentrations, including PM_{2.5} emissions resulting from establishment and use of unpaved roads, were modeled as part of the health risk assessment.

Response to Comment P1-3

The commenter is requesting that a “BAAQMD-based” HRA be conducted to comprehensively evaluate the health and safety risks to Holiday Lake Estates residents, not just the MEI. The HRA provided in the Final EIR was prepared in accordance with the Office of Environmental Health Hazard Assessment’s (OEHHA) *Risk Assessment Guidelines* (OEHHA 2015) and BAAQMD recommendations, which recommends that the health risks associated with Project construction to the MEI be modeled and compared to established significance thresholds to determine impact significance, and the EIR HRA meets BAAQMD standards for HRAs. As stated under OEHHA’s *Risk Assessment Guidelines*, “the modeling analysis should contain a network of receptor points with sufficient detail (in number and density) to permit the estimation of the maximum concentrations” (OEHHA 2015). As BAAQMD *Air Toxics Control Programs Health Risk Assessment Guidelines* (BAAQMD 2021) suggest that OEHHA’s *Risk Assessment Guidelines* be followed, the Project’s HRA is compliant with the requirements under CEQA. The commenter provides no information suggesting that the BAAQMD HRA methodology was not followed. The Project’s HRA accounts for potential exposure to Project diesel exhaust and fugitive dust emissions by modeling particulate matter emissions estimated to be released during Project construction.

Cumulative Impacts on Vulnerable Populations

The commenter mentions the need to consider vulnerable populations and additional toxic air pollutant emissions within the health risk assessment. As demonstrated in Section 3.3, *Air Quality*, of the Final EIR and supporting technical report (Appendix E), the cancer health risk calculation factored in the exposure to TACs over the course of Project construction. It also incorporated age-adjusted breathing rates and age sensitivity factors (ASF) to account for differences in exposures to sensitive populations, such as children and infants (Final EIR page 3.3-26). With regards to the commenter’s request to assess long-term exposure to air pollution, the Project’s HRA accounts for long-term exposure to TACs from Project construction, per OEHHA guidance. Also, per OEHHA guidance, variables specific to those 65 years of age and older, and those with preexisting conditions such as asthma, are not included in the recommended HRA methodology for assessing health risk impacts from exposure. As such, the assessment provided within the Final EIR is consistent with BAAQMD and CEQA requirements and accounts for age factors.

Nevertheless, in response to this and similar comments, a more detailed evaluation of the health risks to Holiday Lake Estates residents was conducted. The results of this assessment are summarized in *Master Response 1 – Health Risk Assessment for Holiday Lake Estates*. As discussed therein, although the Project MEI is not located within the Holiday Lake Estates neighborhood, acute HI in the Holiday Lake Estates area would still exceed the threshold after mitigation (though remain lower than at the MEI), mitigation measures would reduce cancer risk below the significance threshold, and chronic HI and annual PM_{2.5} concentrations would remain below significance thresholds both before and after mitigation.

Air Quality Impacts, Fugitive Dust, and Long-Term Health Risks

The commenter expresses concerns regarding cumulative air quality and health risk impacts. As stated in the Final EIR, in addition to evaluating Project impacts, cumulative impacts were also evaluated against the BAAQMD’s cumulative risk thresholds (Final EIR Section 3.3.5 *Cumulative*

Impacts). Specifically, impacts from construction- and operation-related emissions from nearby existing or reasonably foreseeable projects, roadways with over 10,000 vehicles per day, and railways (within 1,000 feet of the construction site) were evaluated in Final EIR Section 3.3. *Air Quality*, under Section 3.3.5 *Cumulative Impacts* (Final EIR page 3.3-56). Cumulative projects, plans, and programs could result in incrementally adverse impacts if their construction or operation activities overlap within the same timeframe as the construction activities for the Project. However, the Project's contribution to exposure of sensitive receptors to substantial pollutant concentrations (i.e., community health risk) was shown to not be cumulatively considerable with mitigation. With regards to regional criteria air pollutant emissions, in combination with construction or operation occurring at the same time as probable future projects, plans, and programs, Project construction could create localized areas of unhealthy air pollution levels or air quality nuisances, which would further conflict with or obstruct implementation of the applicable air quality plan. Therefore, as stated in Section 3.3.5, the cumulative impact resulting from the Project in combination with other probable future projects would be cumulatively significant, the Project's contribution would be cumulatively considerable, and would remain cumulatively considerable after implementation of mitigation. BMPs and mitigation measures to reduce health risk impacts from Project construction are summarized under Response to Comment P1-2.

Noise Pollution

Regarding noise impacts and associated health risks, Final EIR pages 3.16-31 through 3.16-65 in Section 3.16, *Noise and Vibration*, address Project construction noise impacts. Thresholds of significance were selected based on the potential for adverse health effects, such as the nighttime construction noise threshold of 50 dBA L_{eq} based on research from the USEPA. Noise modeling was conducted that accounted for the proposed construction hours, including nighttime work, and noise modeling was conducted by Project component, including different combinations of anticipated construction equipment depending on proposed construction activities. This was to account for the expected fluctuation in noise levels depending on the construction type and equipment mix in each construction year. Specifically, the Draft EIR and Partially Recirculated Draft EIR concluded that construction noise would be significant and, thus, implementation of Mitigation Measures NOI-1 (Implement Construction Noise Reduction Measures) and NOI-2 (Implement Seismic Retrofit Construction Noise Reduction Measures) are required. Mitigation Measure NOI-1 will require Valley Water to implement a Construction Management Plan, which would require prior notice of construction activities to nearby sensitive receptors, proper maintenance of all construction equipment, equipping all construction equipment with mufflers and air intake silencers, locating staging and delivery areas as far from sensitive receptors (e.g., residences) as is feasible, enclosing stationary noise sources in temporary sheds, restricting the use of bells, whistles, alarms, and horns, and posting signs at construction area entrances to reinforce the prohibition of unnecessary idling. Mitigation Measure NOI-2 is specific to Seismic Retrofit construction and will require the installation of a temporary noise barriers at Staging Area 1 (as feasible), limiting of construction activity within close distances of residences, posting of signs with a noise complaint phone number, and construction noise monitoring during nighttime periods of construction. Finally, Mitigation Measure NOI-5 (Implement Blasting Plan) requires monitoring by a qualified engineer or acoustical consultant. Monitoring results will be used to adjust the blast loading limit. The Blasting Plan will include details regarding outreach to sensitive receptors (e.g., residences) with advance noticing and contact information regarding noise complaints.

outlined in the Partially Recirculated Draft Environmental Impact Report (REIR 2024, SCH #2013082052) released on August 5, 2024. As you know, this project now includes significant developments adjacent to our community that were not part of the original project boundary presented to us in April 2019.

The revised plan introduces several new elements—such as the inclusion of stockpiles and staging areas near our homes, as well as the construction of unpaved roads in the Anderson Lake bed—that pose considerable risks to the health and safety of our residents. Many of us, including children, elderly and disabled individuals, as well as those with preexisting medical conditions, are particularly vulnerable to the increased noise, dust, and environmental impacts that these changes are expected to bring.

P2-1
cont.

To ensure that these concerns are adequately addressed, we have compiled an initial list of questions and requests, which are enclosed with this letter. These questions pertain to critical issues such as air quality, traffic impact, noise levels, and the overall health and safety of our community. Additionally, we are requesting an extension of the public comment period from September 10, 2024, to January 10, 2025, to allow for thorough review and consultation with relevant stakeholders.

P2-2

We believe it is imperative that a public scoping review meeting be convened by Valley Water and the U.S. Army Corp of Engineers as soon as possible to fully inform the Morgan Hill community of the revised plan, disclose health and safety risks, and discuss possible solutions. We also urge the U.S. Army Corps of Engineers and the Valley Water District to consider alternative solutions that do not place our community at health and safety risk.

P2-3

We appreciate your attention to this matter and look forward to your response. Please do not hesitate to contact me at [Your Phone Number] or [Your Email Address] should you require any further information or wish to discuss this matter in more detail.

Thank you for your time and consideration.

Sincerely,

Dorothy David-Malig
Holiday Lake Estates Resident and Homeowner
Morgan Hill, CA 95037

I also signed for two of my neighbors who are homebound. They've approved

- | | | |
|----|---|-------|
| 6. | What are the off-road air quality and noise impacts expected each month and year of the project? | P2-18 |
| 7. | How will the number of planned versus actual hauling trips affecting Holiday Lake Estates residents be measured and reported? Who will be responsible for compliance and remediation? | P2-19 |

Stockpile Locations

- | | | |
|----|--|-------|
| 1. | What criteria were used to determine the locations for Stockpiles D, K-North, and K-South, and why were these sites chosen so close to Holiday Lake Estates? | P2-20 |
| 2. | Please provide the risk analysis evaluating the health, safety, and well-being impacts of these stockpile locations on Holiday Lake Estates residents. | P2-21 |
| 3. | How will the health and safety impacts of stockpiling materials near residential areas be mitigated? | P2-22 |
| 4. | What alternative locations were considered, and why were they deemed unsuitable concerning the health and safety of Holiday Lake Estates residents? | P2-23 |

Stockpile Composition and Activity

- | | | |
|----|--|-------|
| 1. | What materials will be stored in Stockpiles D, K-North, and K-South, and what are the associated risks to the health and safety of Holiday Lake Estates residents? | P2-24 |
| 2. | What are the dimensions (length, width, height) of these stockpiles? | P2-25 |
| 3. | Can you confirm that these are the only stockpiles where noise and air quality may affect Holiday Lake Estates residents? | P2-26 |
| 4. | Has Stockpile-M, as identified in the original Environmental Impact Report, been eliminated? | P2-27 |
| 5. | What is the peak and average number of vehicles, equipment and workers involved | P2-28 |

Response to Comment P2-1

The commenter states that the Project changes introduced in the Partially Recirculated Draft EIR include several new elements including stockpile and staging areas, and construction of unpaved roads in the lakebed. While the Project has changed from the Project presented to the community in April 2019, those changes were disclosed at several public meetings and presented and analyzed in the Draft EIR, which was circulated for public review and comment between September 1 and November 8, 2023. As such, impacts of the Project changes between 2019 and 2023 were fully evaluated in the Draft EIR. The Partially Recirculated Draft EIR did present and evaluate several additional Project changes, but none of them involved new stockpiles, staging areas, or unpaved roads in the Anderson Lake lakebed.

Nevertheless, Valley Water recognizes the commenter's concerns regarding construction activities near the Holiday Lake Estates community, and while not required under CEQA, a detailed evaluation of health risks to Holiday Lake Estates residents is provided in *Master Response 1 – Heath Risk Assessment for Holiday Lake Estates*. As discussed therein, although the Project MEI is not located within the Holiday Lake Estates neighborhood, acute HI in the Holiday Lake Estates area would still exceed the threshold after mitigation (though remain lower than at the MEI), mitigation measures would reduce cancer risk below the significance threshold, and chronic HI and annual PM_{2.5} concentrations would remain below significance thresholds both before and after mitigation.

Response to Comment P2-2

Valley Water carefully considered the request to extend the public review period to January 10, 2025. Per CEQA Guidelines Section 15105(a), the public review period for a Draft EIR "shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances." The Partially Recirculated Draft EIR was circulated for a 45-day review period, which concluded on September 20, 2024. This review period is consistent with typical practices for Draft EIRs. Given that the Partially Recirculated Draft EIR is substantially shorter than most Draft EIRs, Valley Water believes the 45-day review period provided sufficient time for public review and comment. Due to schedule constraints and the need to maintain progress on the ADSRP EIR, Valley Water was unable to accommodate the request for a review period extension.

Response to Comment P2-3

As documented in Section 1.7, *Agency Coordination and Public Involvement Process*, of the Final EIR, the Project has involved an extensive public outreach process, including a recent Public Meeting held on June 6, 2024. Additionally, FERC, acting as the federal lead agency under NEPA, hosted an Environmental Site Visit on September 17, 2024, and NEPA scoping meetings on September 18 and 19, 2024. Public meetings held by the USACE, or other agencies with discretionary approvals for the Project, are the decision of those agencies and not Valley Water.

Under CEQA, additional scoping meetings are not required for a Recirculated Draft EIR. CEQA Guidelines Section 15088.5 specifies that when a Draft EIR is recirculated, the lead agency is required to provide public notice and circulate the Recirculated Draft EIR for public review, but

is not obligated to hold additional public meetings. The substantial public outreach already conducted for the Project satisfies CEQA's requirements for public engagement and ensures that stakeholders have had opportunities to provide input.

Regarding "alternative solutions," the Final EIR presents feasible mitigation measures, as well as a reasonable range of alternatives to reduce the Project's significant impacts (see Final EIR Chapter 5), as required by CEQA. Numerous BMPs have been incorporated into the Project to avoid and minimize impacts, and feasible mitigation measures have been identified to avoid and minimize remaining significant impacts. Under CEQA, when the Valley Water Board of Directors considers the Project, they will review alternatives to the proposed Project, and could select an alternative other than the proposed Project.

Response to Comment P2-4

The commenter identifies several changes to the Project the commenter states that the Partially Recirculated Draft EIR introduces. Some of the changes identified by the commenter are factually correct, whereas others are either incorrect or require clarification. The Project changes identified by the commenter are included below and responded to individually.

- "However, in August 5, 2024, the Valley Water District released a Partially Recirculated Draft Environmental Impact Report (REIR 2024, SCH #2013082052, ADSRP PRDEIR.PDF) for public review, which now includes three stockpiles and one staging area—K-North, K-South, and D and Staging Area 6—located adjacent to Holiday Lake Estates."
- Project changes presented in the Partially Recirculated Draft EIR did not include new stockpile or staging areas. Stockpile Areas K-North, K-South, and Staging Area 6, were included in Section 2.5.2.1, *Staging Areas*, and Section 2.5.2.2, *Stockpile Areas*, of the Draft EIR, and depicted in Figure 2-4. Stockpile Area D was erroneously included in Figure 2-4 (in addition to a few other references) and was not a Project element evaluated in the Draft EIR; as such, Figure 2-4 was revised and the few incorrect references to Stockpile Area D in the EIR have been removed in the Final EIR.
- "The revised plan designates miles of unpaved roadways using the Anderson Lake bed as a thoroughfare for construction vehicles and heavy equipment. These roads are located in dry lake beds where fish contaminated with mercury are inedible."
- Use of the lakebed for construction of unpaved roads for construction vehicles and equipment was disclosed in the Draft EIR (see Section 2.5.2.3, *Access Roads*, of the Final EIR) and was not a Project change described or evaluated in the Partially Recirculated Draft EIR. As stated in Section 3.18, *Recreation*, on page 3.18-18 or the Final EIR, the County recommends catch-and-release fishing in Anderson Reservoir because mercury and PCBs have accumulated in the reservoir at levels that pose potential risks to human health.
- "The Valley Water District has acknowledged that asbestos is present in the original dam, and the REIR indicates that the project will generate significant amounts of fugitive dust, including asbestos and other toxic particles, exceeding regulatory limits."
- The manufactured material used to construct the dam was not generated from materials known to contain asbestos, though NOA is present in ultramafic rock that

would be disturbed as part of the Project. Valley Water acknowledges that even with implementation of mitigation measures, annual PM_{2.5} concentration and community health risks at the MEI would remain above the BAAQMD significance thresholds. This threshold is used to assess the potential environmental impacts of the Project under CEQA, including air quality and health risks, but does not constitute enforceable regulatory limits. An approved Asbestos Dust Mitigation Plan (ADMP) as well as an Asbestos Air Monitoring Plan (AAMP), both of which would be reviewed and approved by BAAQMD, would be implemented to manage and monitor dust and NOA in areas containing NOA.

- “The REIR also notes a 10%+ increase in average numbers of workers per day, with project hours extended from a 40 hour work week to 13-24 hours per day, up to seven days a week, for seven years.”
 - Project changes introduced in the Partially Recirculated Draft EIR do generally include an increase in the number of workers and extension of construction hours, as indicated. The Draft EIR included nighttime work associated with dam excavation and construction in Year 2 through 6 (among other activities), and the Partially Recirculated Draft EIR extended nighttime work, included Saturday work, and included limited Sunday work in Years 1 through 7.
- “Holiday Lake Estates is home to families, many elderly, disabled residents, and individuals with preexisting medical conditions. The inclusion of this vulnerable community within the project boundary and increasing the original planned activity by 150% to 350% poses significant health and safety risks to its 3,000 residents.”
 - Valley Water recognizes the commenter’s concerns regarding construction activities near the Holiday Lake Estates and impacts on the community. The community is home to approximately 2,200 residents (NeighborhoodScout 2024). As such, while a comprehensive evaluation of health risks to each resident within a project vicinity is not required under CEQA to adequately disclose a project’s human health risks, in response to this and similar comments, a more detailed evaluation of the health risks to Holiday Lake Estates residents was conducted, as detailed in *Master Response 1 – Health Risk Assessment for Holiday Lake Estates*. As discussed therein, although the Project MEI is not located within the Holiday Lake Estates neighborhood, acute HI in the Holiday Lake Estates area would still exceed the threshold after mitigation (though remain lower than at the MEI), mitigation measures would reduce cancer risk below the significance threshold, and chronic HI and annual PM_{2.5} concentrations would remain below significance thresholds both before and after mitigation.
 - The comment provides no basis for the assertion that the Project changes in the Partially Recirculated Draft EIR increased Project activity by 150 to 350 percent. While the Partially Recirculated Draft EIR included updated estimates of construction workers and an extension of construction hours, the intensity of construction activities, including near Holiday Lake Estates, has not changed from what was evaluated in the Draft EIR.

Response to Comment P2-5

As documented in Section 1.7, *Agency Coordination and Public Involvement Process*, of the Final EIR, the Project has involved an extensive public outreach process, including a recent Public Meeting held on June 6, 2024. Additionally, FERC, acting as the federal lead agency under NEPA, hosted an Environmental Site Visit on September 17, 2024, and NEPA scoping meetings on September 18 and 19, 2024. In total, Valley Water has conducted 43 public meetings on the Project since 2017 (16 public information meetings outside the formal CEQA scoping process, and 27 public meetings as part of the CEQA process).

In addition, in response to this and similar requests, Valley Water is planning to hold a public meeting in Morgan Hill on February 20, 2024, after the Final EIR is released to discuss the contents of the Final EIR, including updates to the proposed Project and impact analyses.

Response to Comment P2-6

Valley Water carefully considered the request to extend the public review period to January 10, 2025. Per CEQA Guidelines Section 15105(a), the public review period for a Draft EIR "shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances." The Partially Recirculated Draft EIR was circulated for a 45-day review period, which concluded on September 20, 2024. This review period exceeded the statutory minimum of 30 days and is consistent with typical practices for Draft EIRs. Given that the Partially Recirculated Draft EIR is substantially shorter than most Draft EIRs, Valley Water believes the 45-day review period provided sufficient time for public review and comment. Due to schedule constraints and the need to maintain progress on the ADSRP EIR, Valley Water was unable to accommodate the request for a comment period extension.

Response to Comment P2-7

This comment focuses on Project elements that are located near Holiday Lake Estates and suggests their removal from the Project to reduce impacts on residents in the area. Holiday Lake Estates is not within the Project boundary (see Figure 2-4), though as indicated by the commenter, three stockpile areas and one staging area would be near Holiday Lake Estates and construction vehicle traffic could occur on roads within Holiday Lake Estates. In general, the Project was designed in a manner that carefully considered impacts on the community, including Holiday Lake Estates, and sought to avoid and minimize impacts. Given the Project's location adjacent to Holiday Lake Estates and other communities, full impact avoidance is not feasible.

The request to remove Stockpile Areas K-North and K-South, as well as Staging Area 6, is not feasible to implement. As described in Section 2.5.2.2, these stockpile areas are necessary for the temporary storage and processing of embankment and fill materials throughout construction. Eliminating Stockpile Area K, which would likely require storing materials north of the dam, is not feasible due to insufficient space in the reservoir and terrain-related challenges in building access roads to these areas. Off-site stockpiling would extend the construction timeline and increase haul trips, leading to greater air quality and noise impacts, including those affecting communities along the haul routes.

Staging Area 6 would be 2.6 acres and would be used for reservoir access and equipment staging and stockpiling. Staging Area 6 was selected given its proximity to Stockpile Areas K-North, K-South, and M, and the existing reservoir access point. Alternative locations for staging areas were carefully considered during Project planning. The criteria for selecting staging areas included sufficient space to accommodate equipment and materials, accessibility given the terrain, and minimizing environmental and community impacts. Each staging area was evaluated for its proximity to the construction site, feasibility of building access roads, and potential impacts. Some alternative locations, including areas within the reservoir and further from existing communities, were deemed unsuitable due to terrain-related challenges that would have made construction access impractical. Therefore, the selected staging areas were chosen as the most feasible options that balance logistical needs with minimizing environmental and community impacts.

Similarly, elimination of unpaved roads in the lakebed is infeasible. These roads are necessary to transport materials and equipment to and from the dam construction area.

Response to Comment P2-8

Valley Water will prepare a Mitigation Monitoring and Reporting Program, as required by CEQA, to help assure that all EIR mitigation measures for air quality, noise, and other significant impacts identified in the EIR are implemented. In addition, Valley Water plans to voluntarily include implementation monitoring for BMPs that also reduce these impacts.

Valley Water will implement a BAAQMD approved ADMP, as required by the BAAQMD Asbestos ATCM (BAAQMD 2002). The ADMP would include an air monitoring program for fugitive dust levels that would verify that mitigation measures and BMPs are effective in areas containing NOA. An AAMP would also be prepared as part of the ADMP to monitor NOA fibers. The details of these dust and NOA monitoring programs would be determined prior to construction in coordination with BAAQMD. BAAQMD would be responsible for review and approval of the ADMP and AAMP. References to the dust and NOA monitoring programs have been added to the Final EIR in Section 3.10.4, *Impact Analysis*, for Hazards and Hazardous Materials.

Final EIR pages 3.16-31 through 3.16-65 in Section 3.16, *Noise and Vibration*, addressed Project construction noise impacts. Thresholds of significance were selected based on the potential for adverse health effects, such as the nighttime construction noise threshold of 50 dBA L_{eq} based on research from the USEPA. The Final EIR concludes that construction noise would be significant and, thus, implementation of mitigation measures are required, including noise monitoring. Mitigation Measure NOI-2 is specific to Seismic Retrofit construction and will require construction noise monitoring during nighttime periods of construction. Finally, Mitigation Measure NOI-5 (Implement Blasting Plan) requires monitoring by a qualified engineer or acoustical consultant. Monitoring results will be used to adjust the blast loading limit. The Blasting Plan will include details regarding outreach to sensitive receptors (e.g., residences) with advance noticing and contact information regarding noise complaints.

Response to Comment P2-9

The ADMP required by the BAAQMD Asbestos ATCM (BAAQMD 2002) has not yet been prepared, but would be prepared prior to construction when additional construction details

necessary to prepare the plan will be available. An AAMP would also be prepared as part of the ADMP. Once the ADMP and AAMP have been prepared, and reviewed and approved by BAAQMD, the ADMP and AAMP will be made available to the public.

Response to Comment P2-10

Table 3.3-4, *BAAQMD Odor Source Thresholds*, was referenced within portions of revised text presented in the Partially Recirculated Draft EIR, but Table 3.3-4 was not used in support of the revised analysis in the Partially Recirculated Draft EIR as the Project changes did not affect odors; therefore, Table 3.3-4 was not included. Table 3.3-4 was previously included in the Draft EIR, and is included in *Section 3.3.3.8, Thresholds of Significance*, on page 3.3-31 of the Final EIR.

Response to Comment P2-11

Valley Water prepared the *Anderson Dam Seismic Retrofit Project Naturally Occurring Asbestos (NOA) and Metals Evaluation Report* (URS 2021a), which includes soil sampling for asbestos (no air sampling was performed, as asbestos only mobilizes during ground disturbance). The report states that dust from the Project could be inhaled by off-site residential and commercial workers, but that air monitoring and implementation of an approved dust mitigation plan during field activities would detect and mitigate these risks. Regarding air quality monitoring for asbestos, please see Response to Comment P2-8.

Response to Comment P2-12

The commenter requests that the Dust Mitigation Plan (presumably the ADMP), Table 3.3-4, and BMP AQ-1 are made available for public review and comment. As noted in the response to Comment P2-8, the BAAQMD ATCM regulations require that Valley Water implement an approved ADMP that would address specific emissions sources, specify how the emissions will be minimized, and include a perimeter air monitoring program when ground-disturbing activities occur in areas that could include NOA. The details of this air monitoring program would be determined prior to construction in coordination with BAAQMD. BAAQMD would be responsible for review and approval of the ADMP. As noted in the response to Comment P2-9, the ADMP has not yet been prepared. Once the ADMP has been prepared, and reviewed and approved by BAAQMD, the ADMP will be made available to the public.

See Response to Comment P2-10 regarding Table 3.3-4, *BAAQMD Odor Source Thresholds*. Table 3.3-4 is included in *Section 3.3.3.8, Thresholds of Significance*, on page 3.3-31 of the Final EIR.

BMP-AQ-1¹ is discussed in Final EIR Section 3.3, *Air Quality*, and included in full within the Valley Water Best Management Practices Handbook (Appendix A, Attachment 1).

¹ Due to the unique and complex nature of Seismic Retrofit Construction, one minor variance to BMP AQ-1 related to vehicle speeds on unpaved roads is necessary in certain situations and areas to make it feasible for the Project, as detailed in Section 3.3.3.7, *Applicable Best Management Practices and BAAQMD Measures*. The 15 miles per hour speed limit would apply to all vehicles and equipment only in areas containing naturally occurring asbestos. Outside of these areas, a 25 mile per hour speed limit would be observed for haul trucks on unpaved roads (light duty pick-up trucks would observe the 15 mile per hour limit), such as the in-reservoir access roads to Stockpile Areas K and L.

Response to Comment P2-13

Valley Water acknowledges that even with implementation of mitigation measures, annual PM_{2.5} concentration and community health risks are estimated to remain above the BAAQMD significance thresholds. The Project would adhere to BMPs to reduce air quality and health risk impacts, specifically BMP AQ-1, which would require implementation of dust and air quality management measures, including implementation of BAAQMD's BMPs for dust suppression. CEQA requires lead agencies to consider all possible feasible mitigation to reduce impacts associated with the development of a Project. As discussed in the Final EIR and summarized below, Valley Water has identified feasible mitigation measures to reduce air quality and health risk impacts to the extent practicable. Even so, health risk impacts would remain significant and unavoidable. Mitigation measures to reduce the health risk impacts associated with the Project are addressed in Section 3.3, *Air Quality*, of the Final EIR. As discussed therein, Mitigation Measures AQ-1, AQ-2, and AQ-3 would reduce air quality impacts and impacts to sensitive receptors from the Project, where feasible.

Under Mitigation Measure AQ-1, the Project will comply with various measures to reduce air pollutant emissions during construction, including the use of Tier 4 equipment and use of newer model trucks. Under this measure, prior to any construction activities, Valley Water and/or its contractor will implement construction-related criteria pollutant emission reduction measures and include all such requirements in applicable bid documents, purchase orders, and contracts with successful contractors demonstrating the ability to supply the compliant on- or off-road construction equipment for use (Final EIR page 3.3-35). Additionally, Mitigation Measure AQ-2 would implement construction blasting fugitive dust emissions reduction measures, and Mitigation Measure AQ-3 would implement BAAQMD enhanced construction BMPs to further reduce construction-related emissions that exceed the BAAQMD's thresholds of significance. Specifically, Valley Water will require its construction contractors to comply with enhanced BMPs during construction, including the use of vegetative ground cover and soil stabilizer to further mitigate fugitive dust, as well as limiting the simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time.

In addition, implementation of Mitigation Measure GHG-1, described in Section 3.9, *Greenhouse Gas Emissions*, will require Valley Water and/or its construction contractors to use engine electrification and renewable fuels, where feasible.

Response to Comment P2-14

As stated in Chapter 2, *Project Description*, on page 2-47 of the Final EIR, Staging Area 6 would be accessed from Holiday Drive. However, during construction, Holiday Drive would primarily serve as an access route for construction crews (passenger vehicles) and water trucks for dust suppression, with limited use by haul trucks and other heavy-duty vehicles. As discussed under Response to Comment F1-1 in Chapter 7, Valley Water will engage with HEMA prior to Project construction to notify HEMA of plans for temporary use of Holiday Lake Estates roads, and to negotiate an agreement with HEMA for equitable payment for use of HEMA's private roads during Project construction.

Response to Comment P2-15

Fugitive dust and air quality impacts from Project construction were addressed in Section 3.3, *Air Quality*. As discussed therein, air pollutant emissions from construction were modeled and compared to daily thresholds as established under BAAQMD's 2022 CEQA Guidelines (Final EIR Section 3.3.4.2). Air emissions are presented in the Final EIR for each year of construction, e.g., in Tables 3-3-5 and 3.3-6 for Seismic Retrofit construction emissions.

It would be infeasible to model construction emissions by month due to the inherent uncertainty in exactly which months specific activities would occur over the entire duration of construction activity. However, in general, construction activities generating air emissions would be more extensive during the dry season (June-October), and less extensive during rainy season (November-March) .

Final EIR pages 3.16-31 through 3.16-65 in Section 3.16, *Noise and Vibration*, addressed Project construction noise impacts. Noise thresholds are in terms of daytime and nighttime limits. It is conservatively assumed that the estimated construction noise levels could occur on any given day during the proposed construction days/hours for a given Project component phase by year. Due to the dynamic nature of construction activity, it is not possible to predict construction noise levels during a specific month. Therefore, providing noise levels by month would not be possible. However, as mentioned above, in general construction activities generating noise would be more extensive during the dry season (June-October), and less extensive during rainy season (October - May). Noise levels are presented in the Final EIR for several construction years, e.g., in Tables 3-16-10 through 3.16-14 for Seismic Retrofit construction.

Response to Comment P2-16

Please refer to Response to Comment P1-2 and P1-3 for a summary of mitigation measures being implemented to reduce Project impacts to air quality, community health risk, and noise. As stated therein, the Project would adhere to BMPs to reduce air quality and health risk impacts, specifically BMP AQ-1, which would require implementation of dust and air quality management measures, including implementation of BAAQMD's BMPs for dust suppression. Mitigation measures to reduce the health risk impacts associated with the Project are addressed in Section 3.3, *Air Quality*, of the Final EIR. Mitigation Measures AQ-1 (Implement Construction Criteria Air Pollutants Reduction Measures), AQ-2 (Implement Construction Blasting Fugitive Dust Emissions Reduction), and AQ-3 (Implement BAAQMD Enhanced Construction BMPs) will reduce the Project's air quality and health risk impacts on the public and sensitive receptors. In addition, implementation of Mitigation Measure GHG-1, described in Section 3.9, *Greenhouse Gas Emissions*, will require Valley Water and/or its construction contractors to use engine electrification and renewable fuels, where feasible. Additionally, as stated under Impact HAZ-2 starting on page 3.10-27 of the Final EIR, the Project is required to comply with federal, State, and local laws, regulations, and policies designed to minimize hazardous materials exposure impacts with regard to the public and construction workers. For Seismic Retrofit construction, compliance with the BAAQMD ATCM for Construction, and Valley Water BMP AQ-1 (Use Dust Control Measures) and BMP HM-13 (Avoid Impacts from NOA) would minimize potential impacts related to NOA exposure by requiring dust and air quality management measures, including implementation of BAAQMD's BMPs for dust suppression (BMP AQ-1), and through the implementation of worker safety measures and dust control (BMP HM-13). As stated on

page 3.10-28, implementation of Mitigation Measures HAZ-1 (Construction and Grading Operations Dust Control Measures), HAZ-2 (Track Out Control Measures for Roads from NOA-Containing Areas), HAZ-3 (Traffic Control Measures within NOA-Containing Construction Areas), HAZ-4 (Dust Control Measures During Earthmoving Activities), HAZ-5 (Dust Control Measures During Tunneling Activities), and HAZ-6 (Separation of Rock Containing NOA) will reduce the Project's impact related to hazardous materials exposure to less-than-significant levels. Among other requirements and as stated on page 3.10-30 of the Final EIR, Mitigation Measure HAZ-1 requires that wind speeds be monitored using a weather station located on site and all excavation, grading, and demolition activities be suspended when wind speeds exceed 20 mph for a minimum of 30 minutes.

The aforementioned BMPs and mitigation measures are specific actions that will be required to be implemented and monitored during Project construction activities with regards to mitigating airborne NOA exposure potential. The BAAQMD ATCM regulations require that Valley Water implement an approved ADMP that would include an air monitoring program for dust and NOA fibers that would verify that mitigation measures and BMPs are effective, and Mitigation Measures HAZ-3 and HAZ-4 have been revised in the Final EIR consistent with BAAQMD and ADMP requirements.

To reduce noise impacts, implementation of Mitigation Measures NOI-1 (Implement Construction Noise Reduction Measures) and NOI-2 (Implement Seismic Retrofit Construction Noise Reduction Measures) are required. Mitigation Measure NOI-1 will require Valley Water to implement a Construction Management Plan, which would require prior notice of construction activities to nearby sensitive receptors, proper maintenance of all construction equipment, equipping all construction equipment with mufflers and air intake silencers, locating staging and delivery areas as far from sensitive receptors (e.g., residences) as is feasible, enclosing stationary noise sources in temporary sheds, restricting the use of bells, whistles, alarms, and horns, and posting signs at construction area entrances to reinforce the prohibition of unnecessary idling. Mitigation Measure NOI-2 is specific to Seismic Retrofit construction and will require limiting construction activity within close distances of residences, posting of signs with a noise complaint phone number, and construction noise monitoring during nighttime periods of construction. Finally, Mitigation Measure NOI-5 (Implement Blasting Plan) requires monitoring by a qualified engineer or acoustical consultant. Monitoring results will be used to adjust the blast loading limit. The Blasting Plan will include details regarding outreach to sensitive receptors (e.g., residences) with advance noticing and contact information regarding noise complaints.

Response to Comment P2-17

The commenter states that at least 60,000 haul trips would occur to Stockpile Areas K-North and K-South, and is concerned about the impact of these trips on human health. Note that the total number of haul trips was revised in the Final EIR to 67,600, but this increase would not result in new or substantially more severe impacts to air quality or health risk. Also note that these haul trips are dispersed across construction Years 1 through 6 and among the various stockpile areas, including to Stockpile Areas H, I J, and L (located away from residential areas); therefore not all haul trips would occur to stockpile areas in the vicinity of Holiday Lake Estates. With regard to health risk impacts associated with Project construction, which includes the haul trips described by the commenter near Holiday Lake Estates, please refer to *Master Response 1 – Heath Risk Assessment for Holiday Lake Estates*. As discussed therein, although the Project MEI is not

located within the Holiday Lake Estates neighborhood, additional health risk modeling was performed for that area, showing that acute HI would still exceed the threshold after mitigation (though remain lower than at the MEI), mitigation measures would reduce cancer risk below the significance threshold, and chronic HI and annual PM_{2.5} concentrations would remain below significance thresholds both before and after mitigation.

Regarding the impacts of haul trips, please refer to Response to Comment P1-2 and P1-3 for a summary of the air quality and noise mitigation measures being implemented to help reduce Project impacts to community health risk and air quality. As discussed therein, the Project would adhere to BMPs to reduce air quality and health risk impacts, specifically BMP AQ-1, which would require implementation of dust and air quality management measures, including implementation of BAAQMD's BMPs for dust suppression. Mitigation Measures AQ-1 (Implement Construction Criteria Air Pollutants Reduction Measures), AQ-2 (Implement Construction Blasting Fugitive Dust Emissions Reduction), and AQ-3 (Implement BAAQMD Enhanced Construction BMPs) would reduce air quality impacts and impacts to sensitive receptors from the Project, where feasible. In addition, implementation of Mitigation Measure GHG-1 will require Valley Water and/or its construction contractors to use engine electrification and renewable fuels, where feasible.

Additionally, the Project is required to comply with federal, State, and local laws, regulations, and policies designed to minimize hazardous materials exposure impacts with regard to the public and construction workers. For Seismic Retrofit construction, compliance with the BAAQMD ATCM for Construction, and Valley Water BMP AQ-1 (Use Dust Control Measures) and BMP HM-13 (Avoid Impacts from NOA) would minimize potential impacts related to NOA exposure by requiring dust and air quality management measures, including implementation of BAAQMD's BMPs for dust suppression, and through the implementation of worker safety measures and dust control (BMP HM-13). Mitigation Measures HAZ-1 (Construction and Grading Operations Dust Control Measures), HAZ-2 (Track Out Control Measures for Roads from NOA-Containing Areas), HAZ-3 (Traffic Control Measures within NOA-Containing Construction Areas), HAZ-4 (Dust Control Measures During Earthmoving Activities), HAZ-5 (Dust Control Measures During Tunneling Activities), and HAZ-6 (Separation of Rock Containing NOA) would reduce the Project's impact related to hazardous materials exposure to less-than-significant levels. The aforementioned BMPs and mitigation measures are specific actions that will be required to be implemented and monitored during Project construction with regards to mitigating airborne NOA exposure potential. The BAAQMD ATCM regulations require that Valley Water implement an approved ADMP that would include an air monitoring program for dust and NOA fibers that would verify that mitigation measures and BMPs are effective, and Mitigation Measures HAZ-3 and HAZ-4 have been revised in the Final EIR consistent with BAAQMD and ADMP requirements.

Response to Comment P2-18

Please refer to Response to Comment P2-15.

Response to Comment P2-19

The number of haul trips identified in Table 2-7 on page 2-53 of the Final EIR is a reasonable estimate for the purposes of impact analysis. According to CEQA Guidelines Section 15124,

impact analysis must be based on a project description that is sufficiently detailed and known at the time of the environmental review. While actual construction haul trips may differ from those estimated in the Final EIR, they are not expected to exceed these levels. Should haul trips meaningfully increase during construction, additional CEQA review may be required. Compliance with any environmental commitments made as part of the Project (e.g., BMPs and mitigation measures) is the responsibility of Valley Water and would be tracked through administration of the Mitigation Monitoring and Reporting Program.

Response to Comment P2-20

As described in Section 2.5.2.2, stockpile areas would be used for the temporary storage and processing of embankment and fill materials throughout the construction period. The same criteria were applied to determine the location of Stockpile Areas K-North, and K-South as for all other stockpiles: they needed to be large enough to store and process materials, accessible based on the terrain, and positioned to minimize environmental impacts. Stockpile Areas K-North and K-South are near Holiday Lake Estates because alternative locations were not feasible due to limited space within the reservoir and the terrain-related challenges of building access roads to other areas, such as within the reservoir north of the dam. Off-site stockpiling was considered but ultimately rejected, as it would have extended the construction timeline and increased haul trips, resulting in greater air quality and noise impacts, particularly affecting communities along off-site haul routes.

The commenter also identifies Stockpile Area D as close to Holiday Lake Estates. As stated in Response to Comment P2-2, Stockpile Area D was erroneously included in Figure 2-4 and was not a Project element evaluated in the Draft EIR; as such, Figure 2-4 was revised and the few incorrect references to Stockpile Area D been removed in the Final EIR.

Response to Comment P2-21

Fugitive dust and criteria air pollutant impacts from Project construction were addressed in Section 3.3, *Air Quality*, under Impact AQ-2 (Final EIR page 3.3-36), and a health risk analysis was presented under Impact AQ-3 (Final EIR page 3.3-47). The health risk analysis discusses risk with respect to receptors within 1,000 feet of each specific construction phase, as well as the total risk to receptors from construction of the Seismic Retrofit component and the Conservation Measures components regardless of distance between the activity and the receptor.

With regard to health risk impacts associated with Project construction, which includes the stockpiling activities described by the commenter near Holiday Lake Estates, please refer to *Master Response 1 – Health Risk Assessment for Holiday Lake Estates*. As discussed therein, although the Project MEI is not located within the Holiday Lake Estates neighborhood, acute HI in the Holiday Lake Estates area would still exceed the threshold after mitigation (though remain lower than at the MEI), mitigation measures would reduce cancer risk below the significance threshold, and chronic HI and annual PM_{2.5} concentrations would remain below significance thresholds both before and after mitigation.

Response to Comment P2-22

Please refer to Response to Comment P2-16 for a summary of the air quality, hazardous materials, and noise mitigation measures being implemented to help reduce Project impacts to community health risk, air quality, hazards and hazardous materials, and noise.

As discussed therein, the Project would adhere to BMPs to reduce air quality and health risk impacts, specifically BMP AQ-1, which would require implementation of dust and air quality management measures, including implementation of BAAQMD's BMPs for dust suppression, including as applicable to stockpile areas. Mitigation Measures AQ-1 (Implement Construction Criteria Air Pollutants Reduction Measures) and AQ-3 (Implement BAAQMD Enhanced Construction BMPs) will reduce air quality and health risk impacts on the public and sensitive receptors associated with material stockpiling by requiring vehicle and equipment standards, limits on idling times, and minimizing simultaneous occurrence of excavation, grading, and ground-disturbing construction activities. Additionally, as stated under Impact HAZ-2 starting on page 3.10-27 of the Final EIR, the Project is required to comply with federal, State, and local laws, regulations, and policies designed to minimize hazardous materials exposure impacts with regard to the public and construction workers, which would apply to material stockpiling. Compliance with the BAAQMD ATCM for Construction, and Valley Water BMP AQ-1 (Use Dust Control Measures) and BMP HM-13 (Avoid Impacts from NOA) would minimize potential impacts related to NOA exposure by requiring dust and air quality management measures, including implementation of BAAQMD's BMPs for dust suppression (BMP AQ-1), and through the implementation of worker safety measures and dust control (BMP HM-13). Implementation of Mitigation Measures HAZ-1 (Construction and Grading Operations Dust Control Measures) would require that stockpiles be kept adequately wetted, treated with a chemical dust suppressant, or covered when material is not being added to or removed from the pile, and suspension of all excavation, grading, and demolition activities when wind speeds exceed 20 mph for a minimum of 30 minutes. Mitigation Measure HAZ-6 (Separation of Rock Containing NOA) will require preparation of an Excavated Materials Management Plan that will detail the documentation and procedural requirements for tracking soil quality, managing stockpiles, and disposal of soil and debris from excavation including soils containing NOA. These BMPs and mitigation measures reduce the Project's impact related to hazardous materials exposure, including from material stockpiling, to less-than-significant levels.

To reduce noise impacts, implementation of Mitigation Measures NOI-1 (Implement Construction Noise Reduction Measures) and NOI-2 (Implement Seismic Retrofit Construction Noise Reduction Measures) are required and apply to material stockpiling. Mitigation Measure NOI-1 will require Valley Water to implement a Construction Management Plan, which would require prior notice of construction activities to nearby sensitive receptors, proper maintenance of all construction equipment, equipping all construction equipment with mufflers and air intake silencers, locating staging and delivery areas as far from sensitive receptors (e.g., residences) as is feasible, enclosing stationary noise sources in temporary sheds, restricting the use of bells, whistles, alarms, and horns, and posting signs at construction area entrances to reinforce the prohibition of unnecessary idling. Mitigation Measure NOI-2 will require limiting construction activity within close distances of residences, posting of signs with a noise complaint phone number, and construction noise monitoring during nighttime periods of construction.

Response to Comment P2-23

Please refer to Response to Comment P2-20 for a discussion of the criteria used to determine stockpile locations, and why alternative locations were not selected.

Response to Comment P2-24

Stockpiles located onsite would include excavated materials, some of which contain – of most concern for health impacts – NOA. Specifically, these materials come from the excavation of the portals, tunnels, and structures. Although excavated materials containing NOA would be disposed of onsite, disposal of these materials may present a significant impact if they are not appropriately managed and disposed of properly. Implementation of Mitigation Measure HAZ-6 (Separation of Rock Containing NOA) will require the separation of rock containing NOA from other rock types during construction. This measure will also require the preparation of an Excavated Materials Management Plan specifying how excavated rock will be properly classified, managed, and disposed during construction to minimize adverse impacts.

With regards to the commenter's question regarding health and safety risks, impacts related to potential NOA exposure during construction activities were addressed in Section 3.10, *Hazards and Hazardous Materials*. Specifically, as described on page 3.10-29 of the Final EIR, BMPs related to NOA disturbance would be implemented including BMP AQ-1 (Use Dust Control Measures) and BMP HM-13 (Avoid Impacts from NOA). These BMPs would minimize potential NOA exposure impacts through requirements including implementing fugitive dust control measures (e.g., watering disturbed surfaces, covering materials in haul trucks, limiting vehicle speeds in areas of NOA) and worker safety measures when working in areas that support serpentine soils. In addition, the Project must comply with the BAAQMD ATCM for Construction that regulates construction projects that disturb NOA and that would require preparation of an ADMP that specifies how emissions will be minimized.

Furthermore, the Final EIR found that notwithstanding compliance with BMPs and regulatory requirement a significant impact may still occur to the public when ground-disturbing activities occur in areas that support NOA. Therefore, as described on pages 3.10-27 through 3.10-32 of the Final EIR, Mitigation Measure HAZ-1 (Construction and Grading Operations Dust Control Measures), HAZ-2 (Track-out Control Measures for Roads), HAZ-3 (Traffic Control Measures within Construction Areas), HAZ-4 (Dust Control Measures During Earthmoving Activities), HAZ-5 (Dust Control Measures During Tunneling Activities), and HAZ-6 (Separation of Rock Containing NOA) would be required. Implementing these mitigation measures would reduce the impacts of airborne exposure to NOA to a less-than-significant level. Refer to Final EIR Section 3.10, *Hazards and Hazardous Materials*, for the full description of Mitigation Measures HAZ-1 through HAZ-6.

As stated in Response to Comment P2-2, Stockpile Area D was erroneously included in Figure 2-4 and was not a Project element evaluated in the Draft EIR and has been removed in the Final EIR.

Response to Comment P2-25

While dimensions for each stockpile area are not provided in the Final EIR as they are not necessary to support the impact analysis, Table 2-5 in Section 2.5.2.2, *Stockpile Areas*, provides

the total area of the stockpile area in acres and the estimated volume of materials to be stockpiled in cubic yards. This information provides context on the general size of each stockpile area. That said, Stockpile Area K-North would be approximately 1,300 feet long by 450 feet wide and K-South would be approximately 1,600 feet long by 600 feet wide.

Response to Comment P2-26

As stated in the Final EIR, all proposed construction staging areas, borrow areas, stockpile areas, disposal areas, and access roads are included in the Project Area as shown in revised Figure 2-4. As shown therein, Stockpile Areas K-North, K-South, and M are the stockpile areas located closest to Holiday Lake Estates and are therefore likely to have the greatest impact to Holiday Lake Estates residents. As stated in Response to Comment P2-2, Stockpile Area D was erroneously included in Figure 2-4 and was not a Project element evaluated in the Draft EIR and has been removed in the Final EIR.

The Final EIR generally presents the impacts of the Project as a whole, or specific to certain Project components or elements, but the impact of these stockpile areas alone on the Holiday Lake Estates community was not evaluated. However, while a comprehensive evaluation of health risks to each resident within a project vicinity is not required under CEQA in order to adequately disclose a project's human health risks, in response to public comments, a more detailed evaluation of the health risks to Holiday Lake Estates residents was conducted, as detailed in *Master Response 1 – Health Risk Assessment for Holiday Lake Estates*. As discussed therein, although the Project MEI is not located within the Holiday Lake Estates neighborhood, acute HI in the Holiday Lake Estates area would still exceed the threshold after mitigation (though remain lower than at the MEI), mitigation measures would reduce cancer risk below the significance threshold, and chronic HI and annual PM2.5 concentrations would remain below significance thresholds both before and after mitigation.

Response to Comment P2-27

Stockpile Area M has not been eliminated. Stockpile M is shown in Figure 2-4 and described in Table 2-5 in Section 2.5.2.2, *Stockpile Areas*. Stockpile M is located within the southern area of the reservoir on the eastern reservoir bank opposite Holiday Lake Estates.

Response to Comment P2-28

Chapter 2, *Project Description*, of the Final EIR provides details on the average and maximum number of workers per construction phase (Table 2-2), as well as typical equipment and construction sequencing (Table 2-3). However, this data does not specifically address Stockpile Areas K-North and K-South; and peak and average totals specifically for those areas (beyond worker numbers) are unavailable and are not needed to understand the Project's significant construction impacts. As stated in Response to Comment P2-2, Stockpile Area D was erroneously included in Figure 2-4 and was not a Project element evaluated in the Draft EIR and has been removed in the Final EIR.

The EIR's impact analysis relies on reasonable assumptions about construction activities and employs generally accepted industry-standard methodologies to assess potential impacts. Since the exact timing and intensity of construction would be determined by the construction contractor, Valley Water would review the contractor's work plan prior to construction and, if

necessary, conduct additional environmental review if the contractor's assumptions materially exceed those in the Final EIR.

Response to Comment P2-29

As discussed in the response to Comment P2-8, to monitor air quality, Valley Water will implement a BAAQMD-approved ADMP. The ADMP would include an air monitoring program for fugitive dust and NOA fibers that would verify that mitigation measures and BMPs are effective. The details of this air monitoring program, including measurement collection and reporting, would be determined prior to construction in coordination with BAAQMD. BAAQMD would be responsible for review and approval of the ADMP.

Also as discussed in Response to Comment P2-8, regarding noise, Mitigation Measure NOI-1 requires notification to nearby residents and businesses at least 30 days in advance of construction, provides contact information for noise complaints, and should noise complaints occur, includes provisions to investigate and take corrective action, if needed, including hiring a noise consultant for measurement and reporting to Valley Water. Mitigation Measure NOI-2 will require construction noise monitoring during nighttime periods of construction. Mitigation Measure NOI-5 requires monitoring by a qualified engineer or acoustical consultant. Monitoring results will be used to adjust the blast loading limit. The Blasting Plan will include details regarding outreach to sensitive receptors (e.g., residences) with advance noticing and contact information regarding noise complaints.

Response to Comment P2-30

Staging Area 6 would be 2.6 acres and would be used for reservoir access and equipment staging and stockpiling. Staging Area 6 was selected given its proximity to Stockpile Areas K-North, K-South, and M, and existing reservoir access point.

Response to Comment P2-31

Impacts associated with staging activities near Holiday Lake Estates, such as Staging Area 6, would generally be mitigated in the same or similar manner as other Project impacts, including stockpile areas. Please refer to Response to Comments P2-13 and P2-16 for a summary of the air quality, hazards, and noise mitigation measures being implemented to help reduce Project impacts to community health risk, air quality, hazards and hazardous materials, and noise, including from Project staging.

Response to Comment P2-32

Alternative locations for staging areas were carefully considered during Project planning. The criteria for selecting staging areas included sufficient space to accommodate equipment and materials, accessibility given the terrain, and minimizing environmental and community impacts. Each staging area was evaluated for its proximity to the construction site, feasibility of building access roads, and potential impacts on nearby communities. Some alternative locations, including areas within the reservoir and further from existing communities, were deemed unsuitable due to terrain-related challenges that would have made construction access impractical. Therefore, the selected staging areas were chosen as the most feasible options that balance logistical needs with minimizing environmental impacts.

Response to Comment P2-33

Please refer to Response to Comment P2-17 for a summary of the air quality and noise mitigation measures being implemented to help reduce Project impacts on human health, air quality, and noise from haul road activity.

Response to Comment P2-34

Fugitive dust and air quality impacts, and associated health risks, from Project construction were addressed in Final EIR Section 3.3, *Air Quality*, which is supported by technical study and air quality and health risk modeling included in the *Air Quality, Greenhouse Gas and Health Risk Assessment Technical Report* (Appendix E). As discussed therein, air pollutant emissions from construction were modeled and compared to daily thresholds as established under BAAQMD's 2022 CEQA Guidelines (FEIR Section 3.3.4.2). Air emissions are presented in the Final EIR for each year of construction, e.g., in Tables 3.3-5 and 3.3-6 for Seismic Retrofit construction emissions. Please refer to Response to Comment P2-17 for a summary of the air quality mitigation measures being implemented to reduce Project impacts to health and air quality.

- The potential health risks associated with Seismic Retrofit construction are evaluated in detail under Impact AQ-3 on pages 3.3-47 and 3.3-48 of the Final EIR, including impacts to the MEI. While a comprehensive evaluation of health risks to each resident within a project vicinity is not required under CEQA to adequately disclose a project's health risks, in response to community concerns, additional health risk modeling specific to Holiday Lake Estates has been conducted and is detailed in *Master Response 1 – Health Risk Assessment for Holiday Lake Estates*. As discussed therein, although the Project MEI is not located within the Holiday Lake Estates neighborhood, acute HI in the Holiday Lake Estates area would still exceed the threshold after mitigation (though remain lower than at the MEI), mitigation measures would reduce cancer risk below the significance threshold, and chronic HI and annual PM_{2.5} concentrations would remain below significance thresholds both before and after mitigation.

The *Anderson Dam Seismic Retrofit Project Naturally Occurring Asbestos (NOA) and Metals Evaluation Report* (URS 2021) evaluated the potential existence and concentrations of NOA and metals within the soil, rock, and lake sediment materials that are anticipated to be disturbed during the Project. The report states that dust from the Project could be inhaled by off-site residential and commercial workers, but that air monitoring and implementation of an approved dust mitigation plan during field activities would detect and mitigate these risks. As discussed in response to Comment P2-8, Valley Water will implement a BAAQMD approved ADMP. The ADMP would include an air monitoring program for fugitive dust and for NOA fibers that would verify that mitigation measures and BMPs are effective. The details of this air monitoring program would be determined prior to construction in coordination with BAAQMD. BAAQMD would be responsible for review and approval of the ADMP.

Section 3.10, *Hazards and Hazardous Materials*, on pages 3.10-39 and 3.10-40 of the Final EIR address Project construction activities that have the potential to release the soil-dwelling fungus (*Coccidioides*) that can cause Valley Fever. Such a release could pose a hazard to construction workers and/or the public, which would be a significant impact. In order to minimize these potential impacts, the Project would comply with all relevant federal, state, and local laws, regulations, and policies related to hazardous materials, including the regulations in CCR Title 8, Industrial Relations, which minimize exposure to Valley Fever. To minimize potential impacts

from Valley Fever, BAAQMD's ATCM for Construction and Valley Water BMP-AQ-1 (Use Dust Control Measures) would be implemented. These requirements would include implementing fugitive dust control measures (e.g., watering disturbed surfaces, covering materials in haul trucks) and worker safety measures when working in areas that may have the fungus that causes Valley Fever. However, a significant impact may still occur to construction workers and the public when ground-disturbing activities occur in areas that have the fungus that causes Valley Fever. Implementation of mitigation measures established to mitigate NOA, Mitigation Measures HAZ-1 through HAZ-5 described on pages 3.10-30 through 3.10-32 of the Final EIR and discussed in the response to Comment P2-8, would also further minimize risks from soil that may contain the fungus that causes Valley Fever.

Response to Comment P2-35

The *Anderson Dam Seismic Retrofit Project Naturally Occurring Asbestos (NOA) and Metals Evaluation Report* (URS 2021) evaluated the potential existence and concentrations of metals, including mercury, within the soil, rock, and lake sediment materials that are anticipated to be disturbed during the Project. The report states that dust from the Project could be inhaled by off-site residential and commercial workers, but that air monitoring and implementation of an approved dust mitigation plan during field activities would detect and mitigate these risks.

As stated in Final EIR Section 3.10.1.6, *Valley Fever*, test results for Valley Fever are not available because there are no commercially available tests to detect this fungus in soil. See Response to Comment P2-34 for a discussion of how any potential Valley Fever risks from in-reservoir construction activities would be avoided, minimized, or mitigated.

Response to Comment P2-36

See Response to Comment P2-34 for mitigation related to NOA and Valley Fever.

The *Anderson Dam Seismic Retrofit Project Naturally Occurring Asbestos (NOA) and Metals Evaluation Report* (URS 2021) evaluated the potential existence and concentrations of NOA and metals, including mercury, within the soil, rock, and lake sediment materials that are anticipated to be disturbed during the Project. The report states that dust from the Project could be inhaled by off-site residential and commercial workers, but that air monitoring and implementation of an approved dust mitigation plan during field activities would detect and mitigate these risks.

Response to Comment P2-37

Eliminating the use of unpaved roads within the lakebed is not feasible due to their essential role in transporting materials and equipment to and from the dam construction area. Restricting the use of these roads would require rerouting some construction traffic to residential streets near the Project site, which would likely result in equal or greater impacts on health, air quality, and noise for nearby communities. Paving haul roads within the lakebed would similarly result in greater environmental impacts given the high volumes of necessary material movement and increases in equipment operation. Furthermore, the use of alternative routes outside the lakebed or paving of haul roads would introduce significant technical challenges, leading to delays that would extend construction beyond the required 7-year timeline. Therefore, the use of unpaved lakebed roads is the most practical option for minimizing environmental and community impacts while ensuring the timely completion of the Project. However, the BAAQMD

Basic Best Management Practices for Construction-Related Fugitive Dust Emissions, which the Project would follow consistent with BMP AQ-1, would include measures to reduce dust associated with use of unpaved roads. Specifically, unpaved access roads would be watered at least two times per day, treated with a 6- to 12-inch layer of compacted gravel, and vehicles using these roads would observe a speed limit of 15 miles per hour in areas of NOA or 25 miles per hour in areas without NOA.

Response to Comment P2-38

Please refer to Response to Comment P2-17 for a summary of the air quality and noise mitigation measures being implemented to help reduce Project impacts to health, air quality, and noise from haul road activity, which overlap with mitigation related to use of paved roads.

BMP AQ-1 (Use Dust Control Measures) and Mitigation Measures AQ-1 (Implement Construction Criteria Air Pollutants Reduction Measures), GHG-1 (Utilize Electrification and Renewable Fuels During Construction), and HAZ-2 (Track Out Control Measures for Roads) would reduce air quality impacts and impacts to sensitive receptors related to the use of paved roads. BMP AQ-1 would require covering of trucks transporting material, removing mud or dirt tracked onto public roadways, minimizing idling times, and ensuring proper tire inflation. Mitigation Measure AQ-1 will require Valley Water and/or its contractor will implement construction-related criteria pollutant emission reduction measures such as ensuring that all on-road trucks are model year 2010 or newer, minimizing idling time, and require that all construction equipment is maintained and properly tuned in accordance with manufacturer's specification. Mitigation Measure GHG-1 will require Valley Water and/or its construction contractors to use engine electrification and renewable fuels, where feasible. Lastly, Mitigation measure HAZ-2 would require removal of any visible track-out or dust from a paved public road at any location where vehicles exit the work site and installation of track-out measures (e.g., tire shaker, gravel pad, or wheel wash system).

To reduce noise impacts, implementation of Mitigation Measures NOI-1 (Implement Construction Noise Reduction Measures) and NOI-2 (Implement Seismic Retrofit Construction Noise Reduction Measures) are required. Mitigation Measure NOI-1 will require Valley Water to implement a Construction Management Plan, which would require prior notice of construction activities to nearby sensitive receptors, proper maintenance of all construction equipment, equipping all construction equipment with mufflers and air intake silencers, and posting signs at construction area entrances to reinforce the prohibition of unnecessary idling. Mitigation Measure NOI-2 will require routing truck traffic or worker vehicles along Route 1a and avoid Route 1b to the extent feasible, and reducing vehicle speeds on East Main Avenue and Cochrane Road.

Response to Comment P2-39

Fugitive dust and air quality impacts, and associated health risks, from Project construction were addressed in Final EIR Section 3.3, *Air Quality*, which is supported by technical study and air quality and health risk modeling included in the *Air Quality, Greenhouse Gas and Health Risk Assessment Technical Report* (Appendix E). Impacts related to potential NOA exposure during construction activities were addressed in Final EIR Section 3.10, *Hazards and Hazardous*

Materials. BMPs and mitigation measures for these are included in the Final EIR and summarized in Response to Comment P2-8.

The *Anderson Dam Seismic Retrofit Project Naturally Occurring Asbestos (NOA) and Metals Evaluation Report* (URS 2021) evaluated the potential existence and concentrations of NOA and metals within the soil, rock, and lake sediment materials that are anticipated to be disturbed during the Project. The report states that dust from the Project could be inhaled by off-site residential and commercial workers, but that air monitoring and implementation of an approved dust mitigation plan during field activities will detect and mitigate these risks. As noted in the response to Comment P2-8, the BAAQMD ATCM regulations require that Valley Water implement an approved ADMP that would address specific emissions sources, specify how the emissions will be minimized, and include a perimeter air monitoring program when ground-disturbing activities occur in areas that could include NOA. The details of this air monitoring program would be determined prior to construction in coordination with BAAQMD. BAAQMD would be responsible for review and approval of the ADMP.

Response to Comment P2-40

Use of public and private paved roads near and within Holiday Lake Estates is expected to be minimal. As noted in Chapter 2, *Project Description*, on page 2-47 of the Final EIR, Staging Area 6 would be accessed via Holiday Drive. During construction, Holiday Drive would primarily be used for passenger vehicles transporting construction crews and water trucks for dust suppression, with limited use by haul trucks or other heavy-duty vehicles. Alternatives to using public and private paved roads near Holiday Lake Estates were considered, but Holiday Drive provides the only direct access to Staging Area 6.

As detailed in Response to Comment F1-1 in Chapter 7, Valley Water will work closely with HEMA before construction begins to notify them of the planned temporary use of these roads. Valley Water will also negotiate an agreement with HEMA to ensure equitable compensation for the use of HEMA's private roads during the Project. This approach minimizes the impact on the surrounding community while ensuring construction progresses within the Project's logistical and environmental constraints.

Response to Comment P2-41

The *Anderson Dam Seismic Retrofit Project Naturally Occurring Asbestos (NOA) and Metals Evaluation Report* (URS 2021) evaluated the potential existence and concentrations of NOA and metals within the soil, rock, and lake sediment materials that are anticipated to be disturbed during the Project, including near Holiday Lake Estates. See Response to Comment P2-39 for a summary of this report's results.

Response to Comment P2-42

Slope stability and potential impacts associated with landslides are discussed in Section 3.8, *Geology and Soils*, starting on page 3.8-65 of the Final EIR. As discussed therein, the Boat Marina Landslide and Hoot Owl Way Landslides are located north of the Holiday Lake Estates neighborhood. Erosion and potential landslides caused by in-reservoir access roads and stockpiling are not expected to result in destabilization of the hillside supporting the Holiday Lake Estates neighborhood. Valley Water would continue to monitor slope stability and

landslide movement through the use of installed survey monuments and satellite reflectors within the reservoir as part of its normal operations. Construction of all facilities associated with the Seismic Retrofit, which includes access roads, would be conducted in accordance with all relevant provisions of the current FERC and DSOD standards that reduce risks associated with geologic and slope stability. The contractor is responsible for the design and construction of the haul roads, and they would be designed to not adversely impact adjacent slopes; all temporary excavations, including those associated with haul roads, would be designed for a minimum factor of safety of 1.3 (including seismic for the 100-year event)² by a California licensed Geotechnical Engineer. Furthermore, the Project would include Mitigation Measure GEO-1 (Repair Landslides Caused by Construction Activities), which would require Valley Water to monitor active landslide areas during the Seismic Retrofit Construction and initial filling of the reservoir. If landslide movement is determined to have been caused by the Seismic Retrofit Construction activities, including construction of access roads and stockpiling, and found to impact existing improvements, then Valley Water would implement ground stabilization methods to prevent further movement.

Response to Comment P2-43

As discussed in the Response to Comment P2-8, impacts related to potential NOA exposure during construction activities are addressed in Final EIR Section 3.10, *Hazards and Hazardous Materials*. In addition, as also noted in Response to Comment P2-8, the BAAQMD ATCM regulations require that Valley Water implement an approved ADMP that would address specific emissions sources, specify how the emissions will be minimized, and include a perimeter air monitoring program when ground-disturbing activities occur in areas that could include NOA. The details of this air monitoring program would be determined prior to construction in coordination with BAAQMD. BAAQMD would be responsible for review and approval of the ADMP.

Response to Comment P2-44

Results of sampling for NOA were provided in the *Anderson Dam Seismic Retrofit Project Naturally Occurring Asbestos (NOA) and Metals Evaluation Report* (URS 2021), which evaluated the potential existence and concentrations of NOA and metals within the soil, rock, and lake sediment materials that are anticipated to be disturbed during the Project. Sample points were distributed throughout the Project area, including representative samples of areas designated for in-reservoir haul routes.

Response to Comment P2-45

As stated in Section 2.11.1, *Best Management Practices*, due to the unique and complex nature of Seismic Retrofit Construction, one minor variance from the BAAQMD BMPs related to vehicle speeds on unpaved roads is necessary in certain situations and areas to make it feasible for the Project. The 15-mile per hour speed limit would apply to all vehicles and equipment only in areas containing naturally occurring asbestos. Outside of these areas, a 25-mile per hour speed limit would be observed for haul trucks on unpaved roads (light duty pick-up trucks would

² A minimum factor of safety of 1.3 means that the engineer must ensure the structure can withstand at least 30 percent more load than what it is expected to encounter under the most demanding conditions. This includes normal construction-related loads as well as the added effects of a potential seismic event that could occur once every hundred years.

observe the 15 mile per hour limit), such as the in-reservoir access roads to Stockpile Areas K and L. This variance allows for the 7-year construction timeline to be met; a 15 mile per hour limit for the entire site was found to be infeasible.

The *Air Quality, Greenhouse Gas, and Health Risk Assessment Technical Report* (Appendix E) included with the Final EIR was updated to reflect the increase in haul truck speeds to 25 miles per hour outside areas of NOA. At the MEI receptor location for the Seismic Retrofit component, the estimated PM_{2.5} concentration from unpaved road dust emissions contributes to less than 0.01% of the total mitigated PM_{2.5} concentration. Therefore, using a speed of 25 miles per hour on all unpaved haul routes that do not have NOA, the increase in fugitive dust emissions and corresponding PM_{2.5} concentrations is very small (i.e., less than the precision of the analysis).

Response to Comment P2-46

Refer to Response to Comment P2-42. Slope stability and potential impacts associated with landslides are discussed in Section 3.8, *Geology and Soils*, starting on page 3.8-65 of the Final EIR. In-reservoir roads are not expected to destabilize the reservoir rim and lakebed. The contractor is responsible for the design and construction of the haul roads, and they would be designed to not adversely impact adjacent slopes; all temporary excavations, including those associated with haul roads, would be designed for a minimum factor of safety of 1.3 (including seismic for the 100-year event) by a California licensed Geotechnical Engineer. Valley Water will monitor slope stability with survey monuments and satellite reflectors. The Project will comply with FERC and DSOD standards, and Mitigation Measure GEO-1 requires monitoring landslides and stabilizing areas impacted by construction, if necessary.

Response to Comment P2-47

Reservoir-induced seismicity is discussed in Section 3.8, *Geology and Soils*, of the Final EIR starting on page 3.8-56. As discussed therein, the Project would not increase the depth of the reservoir over the Pre-FERC Order Baseline and therefore would not exacerbate risk of reservoir-induced seismicity and surface fault rupture or impacts on the foundations of nearby homes.

Regarding the integrity of home foundations, Valley Water assumes this comment is in reference to potential landslides. As discussed in Section 3.8, *Geology and Soils*, landslides due to reservoir drawdown are part of the existing conditions that have occurred before this Project and are expected to continue to occur after completion of Project construction activities in the same manner as they do now. Erosion and potential landslides caused by construction activities are not expected to result in destabilization of the hillside supporting the Holiday Lake Estates neighborhood. Valley Water would continue to monitor slope stability and landslide movement through the use of installed survey monuments and satellite reflectors within the reservoir as part of its normal operations. Construction of all facilities associated with the Seismic Retrofit would be conducted in accordance with all relevant provisions of the current FERC and DSOD standards that reduce risks associated with geologic and slope stability.

Furthermore, the Project would include Mitigation Measure GEO-1 (Repair Landslides Caused by Construction Activities), which would require Valley Water to monitor active landslide areas during the Seismic Retrofit Construction and initial filling of the reservoir. If landslide movement is determined to have been caused by the Seismic Retrofit Construction activities and found to

impact existing improvements, then Valley Water would implement ground stabilization methods to prevent further movement.

Response to Comment P2-48

The routes for stockpile movement were determined based on several key criteria. These included the proximity of stockpile areas to construction zones, the capacity of the roads to handle heavy truck traffic, and ensuring safe and efficient transport of materials. In particular, in-reservoir stockpile areas were selected to reduce the need for hauling through residential areas.

As discussed in the *Transportation Technical Memorandum* (Appendix O), truck traffic associated with construction would temporarily increase along access routes, with mitigation measures in place to minimize impacts. Cochrane Road would serve as the primary route for haul trucks, and traffic increases on other roadways would be minimal, generally remaining below 10 percent. Temporary access and in-reservoir haul roads have also been planned to divert construction traffic away from neighborhood streets as much as possible, further reducing potential disruptions.

Response to Comment P2-49

Under CEQA Guidelines Section 15064.3(a), vehicle delay caused by traffic congestion is no longer considered an environmental issue of concern under CEQA, and therefore is not subject to analysis in this EIR. However, potential impacts of increased construction traffic on emergency response and evacuation are considered in several places in the Final EIR, including:

- Impact HAZ-5 (Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; see Final EIR page 3.10-36)
- Impact PS-1 (Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or result in need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection; see Final EIR page 3.17-16)
- Impact PS-2 (Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or result in need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for police protection; see Final EIR page 3.17-21)
- Impact TR-4 (Inadequate emergency access; see Final EIR page 3.19-42)

Regarding air quality and noise impacts from construction traffic and when they would occur, refer to Response to Comment P2-15. The Final EIR air quality and noise sections thoroughly evaluate anticipated emissions and noise associated with traffic generated by the Project, ensuring that the environmental review accounts for the effects of construction-related traffic on air quality and noise.

Response to Comment P2-50

The Project changes outlined in the Partially Recirculated Draft EIR would not result in substantially increased construction activity or workload beyond what was originally described in the Draft EIR. Regarding potential damage to public and private roads caused by Project changes evaluated in the Partially Recirculated Draft EIR, as discussed under Response to Comment F1-1 in Chapter 7, Valley Water will continue to proactively manage road use during the Project. Specifically, for roads within Holiday Lake Estates, Valley Water will engage with HEMA prior to construction to inform them of the planned temporary use of their roads. Valley Water will also work with HEMA to negotiate an agreement ensuring equitable compensation for the use of HEMA's private roads during project activities.

Air quality and noise impacts were found to be significant and unavoidable in the Final EIR. Please refer to Response to Comment P2-17 for a summary of the air quality and noise mitigation measures being implemented to reduce Project impacts to human health, air quality, and noise.

Response to Comment P2-51

The revised Project schedule was developed with a focus on achieving the Seismic Retrofit component within a 7-year timeframe, balancing the need to minimize risks to public safety. Limiting construction to fewer hours or fewer days would not allow the Project to meet its objectives within that period. For example, during the five years of dam embankment work, the existing spillway will not be available, increasing the risk of overtopping during storms. Extending the schedule would heighten this risk and pose a threat to downstream populations, which is unacceptable from a public safety standpoint.

Valley Water explored several trade-offs, including the possibility of reducing the volume of earthwork each dry season by limiting nighttime and weekend work. However, this approach would result in a shorter interim dam and reservoir during construction, which greatly increases the risk of overtopping. After consultation with the Project BOC and based on recommendations from FERC, Valley Water proposed extending work hours and adding some weekend work to ensure critical construction activities are completed before each wet season, thereby reducing risks. While these changes help maintain the Project timeline and reduce safety risks, certain activities like blasting and material deliveries would still be restricted to daytime hours to limit community impacts. Mitigation Measure NOI-1 (Implement Seismic Retrofit Noise Reduction Measures) also requires that activity at Stockpile Areas K North and South (located near Holiday Lake Estates) be limited to daytime (7:00 a.m. to 5:00 p.m.) hours, as feasible.

Response to Comment P2-52

Please refer to Response to Comment P2-51 for a summary of the criteria used to determine the construction schedule. The Project's work schedule cannot be limited to 8 hours a day, 5 days a week, due to the critical need to meet public safety objectives within the proposed 7-year construction timeline for the Seismic Retrofit. Extending the schedule would significantly increase risks, particularly during the five years of dam embankment construction when the existing spillway will not be operational. During this period, interim dams will be built to temporarily manage water flow. However, not completing these interim dams or their

temporary spillways before the wet season increases the risk of dam overtopping, which could endanger downstream populations.

Reducing the work hours would result in a substantially shorter interim dam and reservoir before each wet season, further increasing the likelihood of overtopping, which is unacceptable from a public safety perspective. Valley Water has considered these trade-offs and, based on recommendations from the Project BOC and FERC, proposed extending work hours and adding weekend work to ensure critical construction activities are completed before the wet season each year. This scheduling is essential to maintaining public safety and helping to ensure that the Project is completed on time.

While health and safety are a priority, the proposed schedule reflects a necessary balance between minimizing flood risks to the community from the dam and managing impacts on local residents. Certain activities, such as blasting and material deliveries, would still be restricted to daytime hours.

Response to Comment P2-53

Please refer to Response to Comment P2-16 for a summary of noise mitigation measures being implemented to reduce Project noise. Construction noise during weekends, early mornings, and late evenings will be reduced through the implementation of noise reduction measures outlined in the Final EIR (pages 3.16-31 to 3.16-65), which are generally applicable to most construction activities, regardless of timing. The Draft and Partially Recirculated Draft EIRs concluded that construction noise impacts would be significant, which necessitates Mitigation Measures NOI-1 (Construction Noise Reduction Measures) and NOI-2 (Seismic Retrofit Construction Noise Reduction Measures). These measures include prior notice to nearby residents, maintenance of equipment, use of mufflers and silencers, placement of noise barriers, and noise monitoring during nighttime construction. As described in Section 2.5.1.2, *Work Hours and Crew Size*, certain activities would be restricted to daytime hours only, such as blasting at the BHBA (8:00 a.m. to 5:00 p.m.) and delivery of materials (7:00 a.m. to 8:00 p.m.).

Response to Comment P2-54

The Final EIR includes several air quality and noise mitigation measures intended to protect public health and safety throughout the Project. Please refer to Response to Comment P2-16 for a summary of the air quality and noise mitigation measures, including monitoring, being implemented to help reduce Project impacts to human health, air quality, and noise.

As discussed therein, the BAAQMD ATCM regulations require that Valley Water implement an approved ADMP that would include an air monitoring program for dust and NOA fibers that would verify that mitigation measures and BMPs are effective in areas containing NOA. To reduce noise impacts, implementation of Mitigation Measures NOI-2 (Implement Seismic Retrofit Construction Noise Reduction Measures) and NOI-5 (Implement Blasting Plan) are required. Mitigation Measure NOI-2 will require construction noise monitoring during nighttime periods of construction, and if exceedances of the construction noise limit are found, the construction contractor will modify construction techniques and equipment to reduce the construction noise below the 50 dBA L_{eq} limit, to the degree feasible. Mitigation Measure NOI-5 will require implementation of a Blasting Plan that requires vibration and air overpressure monitoring be conducted to adjust blast loading limits to properly reflect site-specific conditions

to prevent vibration impacts from blasting from exceeding the building damage threshold. The Blasting Plan will restrict blasting activities to between the hours of 8:00 a.m. and 5:00 p.m. The Blasting Plan will also include details regarding outreach to nearby sensitive receptors to notify them in advance of days in which blasting will occur and contact information on who to reach out to regarding complaints from the blasting.

Response to Comment P2-55

Residents will be provided with appropriate contact information, including phone hotlines, to report any issues that arise during Project construction. In accordance with the BAAQMD *Basic Best Management Practices for Construction-Related Fugitive Dust Emissions*, publicly visible signs would be posted with the telephone number and person to contact regarding dust complaints. Furthermore, in accordance with Mitigation Measure NOI-2 (Seismic Retrofit Construction Noise Reduction Measures), noise monitoring will be also conducted, especially during nighttime activities. Additionally, signs with a 24-hour hotline will be posted at construction sites, allowing residents to report noise and air quality concerns. Valley Water will promptly investigate and address any complaints received to ensure impacts are minimized.

Response to Comment P2-56

Fugitive dust and air quality impacts from Project construction are addressed in Section 3.3, *Air Quality*, of the Final EIR. This section includes a discussion of the Project's construction emissions, which are quantified using an air modeling simulation. The model incorporates Project-specific vehicle and equipment activity, as well as material handling activities, into the baseline assumptions. These assumptions include equipment types, the number of equipment, hours of operation per day, and the number of hauling truck and employee trips. Additionally, the model accounts for seasonality, with daily emission values varying between winter and summer due to differences in weather and how it interacts with ambient pollutant formation.

The *Air Quality, Greenhouse Gas, and Health Risk Assessment Technical Report* (Appendix E), which supports the air quality assessment in Section 3.3 of the Final EIR, provides further details on the assumptions used in the air model, including weather conditions, vehicle and equipment activity types, and material handling.

Comment Letter P3 is identical in content to Comment Letter P1, and detailed responses are provided in Responses to Comments P1-1 through P1-3.

Responses to Comment Letter P3

Response to Comment P3-1

Please refer to Response to Comment P1-1.

Response to Comment P3-2

Please refer to Response to Comment P1-2.

Response to Comment P3-3

Please refer to Response to Comment P1-3.

Response to Comment P4-1

Valley Water acknowledges the commenter's concerns about nighttime construction noise in the Cochrane Road corridor, especially regarding the potential impact on sleep for nearby residents. Project changes in the Partially Recirculated Draft EIR included nighttime and weekend work for some additional activities, such as construction of the spillway and diversion systems. Nighttime and weekend work for communications lines and paving activities on Cochrane Road, as well as dam excavation and reconstruction, was included in the Draft EIR and was unmodified by the Partially Recirculated Draft EIR. Delivery of materials to the Project Area, which would occur in part along Cochrane Road, would be limited to the hours of 7:00 a.m. to 8:00 p.m. to minimize noise impacts. While the Final EIR recognizes that noise impacts from night work may be significant, a series of mitigation measures would be implemented to minimize these impacts as much as possible.

Mitigation Measure NOI-1 (Implement Construction Noise Reduction Measures) will require Valley Water to implement a Construction Management Plan, which would require prior notice of construction activities to nearby sensitive receptors, proper maintenance of all construction equipment, equipping all construction equipment with mufflers and air intake silencers, locating staging and delivery areas as far from sensitive receptors (e.g., residences) as is feasible, enclosing stationary noise sources in temporary sheds, restricting the use of bells, whistles, alarms, and horns, and posting signs at construction area entrances to reinforce the prohibition of unnecessary idling. Mitigation Measure NOI-2 (Implement Seismic Retrofit Construction Noise Reduction Measures) is specific to Seismic Retrofit construction and will require the installation of a temporary noise barriers at Staging Area 1 (as feasible), limiting of construction activity within close distances of residences, posting of signs with a noise complaint phone number, and construction noise monitoring during nighttime periods of construction. Finally, Mitigation Measure NOI-5 (Implement Blasting Plan) requires monitoring by a qualified engineer or acoustical consultant. Monitoring results will be used to adjust the blast loading limit. The Blasting Plan will include details regarding outreach to sensitive receptors (e.g., residences) with advance noticing and contact information regarding noise complaints.

We understand that these measures may not entirely eliminate the inconvenience caused by nighttime construction, but they will help mitigate the most significant impacts. The decision to conduct some work overnight is based on several critical factors, including the need to complete the Project within the required 7-year timeline and ensure public safety by adhering to strict seasonal construction windows. Reducing work hours to daytime only would extend the Project significantly, increasing flood risks to the public and prolonging overall construction impacts. Valley Water remains committed to minimizing disruptions as much as possible.

Response to Comment P4-2

Impact NOI-2 in Section 3.16, *Noise and Vibration*, of the Final EIR addresses potential vibration impacts from Project construction. Specifically, the Final EIR concluded that construction vibration thresholds could be exceeded during Seismic Retrofit construction at Receptors R-2 (from use of a padfoot roller near Staging Area 1) and R-32 (from use of a padfoot roller near Staging Area 4). The Final EIR also concluded that construction vibration thresholds could be

exceeded during construction of the Sediment Augmentation Program at Receptor R-2, though this Conservation Measure is expected to only occur over a period of 1 to 2 days. To mitigate these impacts, Mitigation Measure NOI-4 (Seismic Retrofit and Sediment Augmentation Program Construction Vibration Reduction Measures) will be implemented, which does not include monitoring but rather a specific measure to reduce vibration. This measure includes the use of oscillatory or static rollers, which maintain constant contact with the ground, instead of vibratory rollers that cause more intense vibrations, during construction within 150 feet of residential structures. Based on the nature of the vibration impacts, no additional measures to reduce vibration were determined to be feasible.

While the commenter notes that Project vibrations feel similar to a 3.0 earthquake, this perception is not scientifically supported.

Response to Comment P4-3

Limiting truck activity to reduced hours is not feasible for this Project due to the need to meet critical public safety objectives within the 7-year construction timeline for the Seismic Retrofit. Continuous truck activity, including some nighttime and weekend transport, is necessary to complete the required volume of work within each dry season. During the five years of dam embankment construction, the existing spillway would not be operational, increasing the risk of dam overtopping during large storms. To mitigate this risk, temporary spillways must be constructed before each wet season, and any delays would further heighten the risk to downstream populations. Reducing truck activity to daytime hours only would substantially extend the Project timeline, resulting in shorter interim dams and increased public safety risks due to the potential for overtopping.

After circulation of the Draft EIR, Valley Water met with the Project BOC, which reviews the Project and makes recommendations to FERC, to discuss updated design plans and construction sequencing. In response to that meeting and BOC recommendations, Valley Water proposed in the Partially Recirculated Draft EIR to make certain construction changes such as extending work hours, adding some weekend days, and beginning work on certain Project components sooner. These proposed changes would allow Valley Water to construct planned Project components within the planned construction timeline before the wet season each year to improve its ability to complete the Project on schedule. As described in Section 2.5.1.2, *Work Hours and Crew Size*, certain activities would be restricted to daytime hours only, such as blasting at the BHBA (8:00 a.m. to 5:00 p.m.) and delivery of materials (7:00 a.m. to 8:00 p.m.). However, limiting all truck activity to specific windows would be infeasible to meet the Project schedule and objectives.

Response to Comment P4-4

Section 3.9, *Greenhouse Gas Emissions*, of the Final EIR addresses Project construction GHG emissions impacts. As discussed therein, Mitigation Measure GHG-1 (Utilize Electrification and Renewable Fuels During Construction) will require Valley Water and/or its construction contractors to use engine electrification (including hybrid equipment) and renewable fuels, where feasible. The use of electric or hybrid equipment and renewable diesel or biodiesel fuels during Project construction will be subject to technical and economic feasibility findings by Valley Water as well as availability in the region prior to the commencement of construction activities. Additionally, under Mitigation Measure GHG-2 (Offset GHG Emissions Prior to and

During Construction), Valley Water will offset net Project-related construction GHG emissions after implementation of Mitigation Measure GHG-1 to achieve no net increase in Project-related construction GHG emissions.

Response to Comment P4-5

Please refer to Response to Comment P4-3 for a discussion of the criteria used to determine the Project's construction schedule and hours. Sunday work is a critical component of the construction schedule to ensure the Project meets its safety objectives within the required timeline. Eliminating work on Sundays would extend the Project duration and increase risks to public safety. During the five years of dam embankment construction, the existing spillway would not be operational, heightening the risk of dam overtopping during large storms. Temporary spillways must be completed before each wet season to mitigate this risk, and any delays, including eliminating Sunday work, would increase the likelihood of overtopping, putting downstream populations at greater risk.

Sunday work would be limited to up to 12 Sundays per year in Years 1 through 3, 40 Sundays in Year 4, and 12 Sundays in Years 5 through 7. These are conservative estimates, and the contractor will assess whether reducing Sunday work is feasible as the Project progresses. Valley Water remains committed to minimizing disruptions while facilitating the timely completion of this critical public safety Project.

Response to Comment P4-6

The commenter offers several potential options to reduce construction impacts on the public, which are responded to individually below.

1. **Sound wall on Cochrane Road.** Various mitigation measures were considered to minimize noise impacts associated with Project construction. With regards to a sound barrier on Cochrane Road, Mitigation Measure NOI-2 will require the installation of temporary noise barriers between Staging Area 1 and sensitive receptors (as feasible), among other noise reduction measures. A sound wall along the north side of Cochrane Road is not feasible due to the limited available space, given the location of the creek near the roadway and vehicle safety concerns (a sound wall would typically need to be setback 12 feet from the road). A sound wall on the south side of Cochrane Road is not feasible given the nearby sensitive receptors are primarily two-story homes, and the sound wall would need to be at least 15 feet high (assuming placement close to the receptor) to provide meaningful value in reducing noise impacts. A wall this high would also result in adverse aesthetic impacts, and require secure foundations or bracing to withstand winds and other structural stresses, which would pose similar constraints related to space, access, and utility conflicts. Lastly, the value of a potential sound wall along Cochrane Road (either side) would be diminished by the gaps in the barrier necessary for existing roadways (including line of sight setbacks) and construction access points.
2. **Canopy to shield construction lighting.** Various mitigation measures were considered to reduce light impacts associated with Project construction. Impacts associated with nighttime construction lighting during Seismic Retrofit construction are discussed in Section 3.1, *Aesthetics*, starting on page 3.1-61 of the Final EIR. The analysis of light and

glare under Impact AES-3 was revised in the Partially Recirculated Draft EIR based on the changes to the Seismic Retrofit construction hours, which includes an increased number of Seismic Retrofit construction activities and construction days involving early morning, evening, and nighttime construction. As discussed in the Draft and Partially Recirculated Draft EIR, limited construction lighting may be visible from nearby public roads, which would be a substantial new source of nighttime lighting. Implementation of Mitigation Measure AES-3 (Construction Lighting) would reduce this impact to a less-than-significant level by requiring construction contractors to shield construction lighting at night. This includes installing light shields to minimize nuisance light visible from public roadways and focusing lighting downward or away from roads. Additionally, light fixtures will be designed to limit the spread of light, and screens or barriers (e.g., fencing, vegetation) will be used where necessary to block visible light from roadways. Barriers will also be placed along access roads used for 24-hour deliveries to minimize light impacts, such as those required for the Ogier Ponds CM. While a crane-lifted canopy may offer some localized benefits for specific tasks, it is not practical or effective on a project of this scale. More targeted measures, such as the ones proposed under Mitigation Measure AES-3, would be more efficient and effective for controlling light impacts, and would reduce these impacts to less-than-significant levels. Therefore, no modification to the mitigation for nighttime lighting is proposed.

3. **Limit truck speeds.** Mitigation Measure NOI-2 includes a temporary reduction of speed limits for worker vehicles and trucks along Cochrane Road, lowering the speed by 5 mph below the posted limit between East Main Avenue and Half Road, and reducing speeds from 45 mph to 35 mph on the section of Cochrane Road that would be closed to through traffic (see Final EIR page 3.16-69). While Valley Water understands the concern about truck speeds in residential areas, it is not feasible to further reduce all truck speeds to 25 mph on every residential street within 0.5-mile of the construction zone without severely impairing the ability to achieve the Project's schedule and objectives. The current speed reductions have been designed to balance noise and safety concerns with maintaining an efficient construction schedule. For additional details on the criteria used to determine the Project's construction schedule, please refer to Response to Comment P4-3.
4. **Reimbursement for noise reductions.** The Project's noise impacts and associated mitigation measures, such as Mitigation Measures NOI-1 and NOI-2, focus on reducing noise at the source to minimize impacts on nearby residences; this is generally the most efficient noise mitigation strategy. Because of this, there is no program for reimbursement of noise-mitigation expenses incurred by residents. Claims for reimbursement would need to be submitted and resolved through the Government Code claims process, if applicable. Residents may request a claim form from the Valley Water Risk Manager via email at RiskManager@valleywater.org.
5. **GHG reduction.** Refer to Response to Comment P4-4.

particles on air quality and health risks to Holiday Lake Estates residents?	P5-34 cont.
3. Is there mercury, fungus and toxins in the lakebed soil? Please share the test results.	P5-35
4. What health risks are introduced by the presence of mercury, fungus and toxins, and how will they be mitigated?	P5-36
5. What alternatives to using unpaved lakebed roads have been explored, and why were they not implemented?	P5-37
Paved Road Use	
1. How will the increased air pollution and noise from using paved roads be addressed?	P5-38
2. What studies have been conducted to assess the impact of fugitive dust, toxins, and debris on air quality and health risks to residents?	P5-39
3. What alternatives to using public and private paved roads near Holiday Lake Estates have been considered, and why were they not adopted?	P5-40
Soil Testing and Traffic Viability	
1. What soil testing has been conducted on the Anderson Lakebed, particularly near Holiday Lake Estates?	P5-41
2. Please provide analyses demonstrating the lake bed and reservoir rim bank's ability to withstand construction vehicle traffic and stockpile activity.	P5-42
Asbestos Analysis and Traffic Speed Implications	
1. How will the introduction of asbestos to Holiday Lake Estates residents be addressed?	P5-43
2. What analyses have been performed to assess asbestos presence in the areas designated for unpaved lakebed road use?	P5-44
3.	

Comment Letter P5 is identical in content to Comment Letter P2, and detailed responses are provided in Responses to Comments P2-1 through P2-56.

Response to Comment P5-1

Please refer to Response to Comment P2-1.

Response to Comment P5-2

Please refer to Response to Comment P2-2.

Response to Comment P5-3

Please refer to Response to Comment P2-3.

Response to Comment P5-4

Please refer to Response to Comment P2-4.

Response to Comment P5-5

Please refer to Response to Comment P2-5.

Response to Comment P5-6

Please refer to Response to Comment P2-6.

Response to Comment P5-7

Please refer to Response to Comment P2-7.

Response to Comment P5-8

Please refer to Response to Comment P2-8.

Response to Comment P5-9

Please refer to Response to Comment P2-9.

Response to Comment P5-10

Please refer to Response to Comment P2-10.

Response to Comment P5-11

Please refer to Response to Comment P2-11.

Response to Comment P5-12

Please refer to Response to Comment P2-12.

Response to Comment P5-13

Please refer to Response to Comment P2-13.

Response to Comment P5-14

Please refer to Response to Comment P2-14.

Response to Comment P5-15

Please refer to Response to Comment P2-15.

Response to Comment P5-16

Please refer to Response to Comment P2-16.

Response to Comment P5-17

Please refer to Response to Comment P2-17.

Response to Comment P5-18

Please refer to Response to Comment P2-18.

Response to Comment P5-19

Please refer to Response to Comment P2-19.

Response to Comment P5-20

Please refer to Response to Comment P2-20.

Response to Comment P5-21

Please refer to Response to Comment P2-21.

Response to Comment P5-22

Please refer to Response to Comment P2-22.

Response to Comment P5-23

Please refer to Response to Comment P2-23.

Response to Comment P5-24

Please refer to Response to Comment P2-24.

Response to Comment P5-25

Please refer to Response to Comment P2-25.

Response to Comment P5-26

Please refer to Response to Comment P2-26.

Response to Comment P5-27

Please refer to Response to Comment P2-27.

Response to Comment P5-28

Please refer to Response to Comment P2-28.

Response to Comment P5-29

Please refer to Response to Comment P2-29.

Response to Comment P5-30

Please refer to Response to Comment P2-30.

Response to Comment P5-31

Please refer to Response to Comment P2-31.

Response to Comment P5-32

Please refer to Response to Comment P2-32.

Response to Comment P5-33

Please refer to Response to Comment P2-33.

Response to Comment P5-34

Please refer to Response to Comment P2-34.

Response to Comment P5-35

Please refer to Response to Comment P2-35.

Response to Comment P5-36

Please refer to Response to Comment P2-36.

Response to Comment P5-37

Please refer to Response to Comment P2-37.

Response to Comment P5-38

Please refer to Response to Comment P2-38.

Response to Comment P5-39

Please refer to Response to Comment P2-39.

Response to Comment P5-40

Please refer to Response to Comment P2-40.

Response to Comment P5-41

Please refer to Response to Comment P2-41.

Response to Comment P5-42

Please refer to Response to Comment P2-42.

Response to Comment P5-43

Please refer to Response to Comment P2-43.

Response to Comment P5-44

Please refer to Response to Comment P2-44.

Response to Comment P5-45

Please refer to Response to Comment P2-45.

Response to Comment P5-46

Please refer to Response to Comment P2-46.

Response to Comment P5-47

Please refer to Response to Comment P2-47.

Response to Comment P5-48

Please refer to Response to Comment P2-48.

Response to Comment P5-49

Please refer to Response to Comment P2-49.

Response to Comment P5-50

Please refer to Response to Comment P2-50.

Response to Comment P5-51

Please refer to Response to Comment P2-51.

Response to Comment P5-52

Please refer to Response to Comment P2-52.

Response to Comment P5-53

Please refer to Response to Comment P2-53.

Response to Comment P5-54

Please refer to Response to Comment P2-54.

Response to Comment P5-55

Please refer to Response to Comment P2-55.

Response to Comment P5-56

Please refer to Response to Comment P2-56.

Comment Letter P6 is identical in content to Comment Letter P1, and detailed responses are provided in Responses to Comments P1-1 to P1-3.

Response to Comment P6-1

Please refer to Response to Comment P1-1.

Response to Comment P6-2

Please refer to Response to Comment P1-2.

Response to Comment P6-3

Please refer to Response to Comment P1-3.

roadway transportation of stockpile materials. At that time, the Holiday Lake Estates, a lakeside residential community, was explicitly stated to be outside the boundary of the project.

However, in August 5, 2024, the Valley Water District released a Partially Recirculated Draft Environmental Impact Report (REIR 2024, SCH #2013082052, ADSRP PR-DEIR.PDF) for public review, which now includes three stockpiles and one staging area—K-North, K-South, and D and Staging Area 6—located adjacent to Holiday Lake Estates. The revised plan designates miles of unpaved roadways using the Anderson Lake bed as a thoroughfare for construction vehicles and heavy equipment. These roads are located in dry lake beds where fish contaminated with mercury are inedible. The Valley Water District has acknowledged that asbestos is present in the original dam, and the REIR indicates that the project will generate significant amounts of fugitive dust, including asbestos and other toxic particles, exceeding regulatory limits.

The REIR also notes a 10%+ increase in average numbers of workers per day, with project hours extended from a 40 hour work week to 13-24 hours per day, up to seven days a week, for seven years. Holiday Lake Estates is home to families, many elderly, disabled residents, and individuals with preexisting medical conditions. The inclusion of this vulnerable community within the project boundary and increasing the original planned activity by 150% to 350% poses significant health and safety risks to its 3,000 residents.

Our family as residents of Holiday Lake Estates are requesting the following project actions:

1. Immediately schedule a public scoping review to update Morgan Hill citizens especially the Holiday Lake Estates community on the extended work schedule, boundary expansion, health and safety hazards and plan for solutions.
2. Grant an extension of the public comment period from September 10, 2024, to January 10, 2025, to allow for thorough review, consultation and response to the U.S. Army Corps of Engineers and Valley Water District especially for impacted residents.
3. Exclude Holiday Lake Estates community from the project boundary to protect the health and safety of residents of Holiday Lake Estates.
4. Eliminate the Stockpiles K-North and K-South from the project plan per item 3. above.
5. Eliminate lakebed unpaved roads for transporting stockpile and staging materials per item 3. Above.
6. Eliminate Staging Area 6 from the project plan per per item 3 above.
7. Continuously monitor and report on air quality, noise levels and project activities, ensuring they meet or exceed regulatory standards with respect to the health and safety of the Holiday Lake Estates residents.

After reviewing the REIR 2024, we present the following questions to address the health and safety concerns of our family as Holiday Lake Estates residents:

Air Quality

Dust Mitigation Plan

1. The REIR mentions a BAAQMD-approved Dust Mitigation Plan (pursuant to the California Asbestos ATCM for Construction, Grading, Quarrying, and Surface Mining Operations (CCR Title 17, Section 93105)) that is not currently available for public review. We request that this plan be made available immediately.
2. Table 3.3-4, referenced in the REIR, is missing from the public document. We request its immediate release for public review.
3. We request the results of the following tests mentioned in the REIR: soil and ambient air sampling for asbestos fibers.

Responses to Comment Letter P7

Response to Comment P7-1

The commenter's September 17 e-mail (Comment Letter P6), which this comment partially summarizes, is identical in content to Comment Letter P1, and detailed responses are provided in Responses to Comments P1-1 through P1-3.

Valley Water carefully considered the request to extend the public review period to January 10, 2025. Per CEQA Guidelines Section 15105(a), the public review period for a Draft EIR "shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances." The Partially Recirculated Draft EIR was circulated for a 45-day review period, which concluded on September 20, 2024. This review period exceeded the statutory minimum of 30 days and is consistent with typical practices for Draft EIRs. Given that the Partially Recirculated Draft EIR is substantially shorter than most Draft EIRs, Valley Water believes the 45-day review period provided sufficient time for public review and comment. Due to schedule constraints and the need to maintain progress on the ADSRP EIR, Valley Water was unable to accommodate the request for a review period extension.

A detailed evaluation of the health risks to Holiday Lake Estates residents, which meets BAAQMD standards, is included in *Master Response 1 – Heath Risk Assessment for Holiday Lake Estates*. As discussed therein, although the Project MEI is not located within the Holiday Lake Estates neighborhood, acute HI in the Holiday Lake Estates area would still exceed the threshold after mitigation (though remain lower than at the MEI), mitigation measures would reduce cancer risk below the significance threshold, and chronic HI and annual PM2.5 concentrations would remain below significance thresholds both before and after mitigation.

Response to Comment P8-1

Valley Water acknowledges the commenter's concerns regarding noise, vibration, and night work, including Sunday activities. Section 3.16, *Noise and Vibration*, of the Final EIR on pages 3.16-31 through 3.16-65 addresses Project construction noise impacts. While certain noise and vibration impacts are considered significant, a range of mitigation measures, including Mitigation Measures NOI-1, NOI-2, NOI-4, and NOI-5 have been proposed to reduce noise and vibration to the extent possible. Mitigation Measure NOI-1 will require Valley Water to implement a Construction Management Plan, which would require prior notice of construction activities to nearby sensitive receptors, proper maintenance of all construction equipment, equipping all construction equipment with mufflers and air intake silencers, locating staging and delivery areas as far from sensitive receptors (e.g., residences) as is feasible, enclosing stationary noise sources in temporary sheds, restricting the use of bells, whistles, alarms, and horns, and posting signs at construction area entrances to reinforce the prohibition of unnecessary idling. Mitigation Measure NOI-2 is specific to Seismic Retrofit construction and will require limiting construction activity within close distances of residences, posting of signs with a noise complaint phone number, and construction noise monitoring during nighttime periods of construction. Mitigation Measure NOI-4 will require Valley Water or its contractor to implement vibration mitigation measures for the Seismic Retrofit and Sediment Augmentation Program construction, including use of oscillatory or static rollers (which maintains constant contact with the ground) in lieu of vibratory rollers (which lifts off and pounds the ground) for compaction near residential structures (within 150 feet). Finally, Mitigation Measure NOI-5 (Implement Blasting Plan) requires monitoring by a qualified engineer or acoustical consultant. Monitoring results will be used to adjust the blast loading limit. The Blasting Plan will include details regarding outreach to sensitive receptors (e.g., residences) with advance noticing and contact information regarding noise complaints.

Sunday work would be limited to up to 12 Sundays per year in Years 1 through 3, 40 Sundays in Year 4, and 12 Sundays in Years 5 through 7. These are best estimates, and the contractor will assess whether reducing Sunday work is feasible as the Project progresses. Valley Water remains committed to minimizing disruptions while facilitating the timely completion of this critical public safety Project.

Response to Comment P9-1

This comment expresses support for the Project and notes that noise impacts associated with the Coyote Creek Flood Management Measures Project were less than anticipated. This comment does not pertain to the adequacy, content, or impact conclusions of the Partially Recirculated Draft EIR. No further response is required.

8.4 References

BAAQMD (Bay Area Air Quality Management District). 2002. Regulatory Advisory: Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations. November 19, 2002. Available at: https://www.baaqmd.gov/~media/files/compliance-and-enforcement/advisories/asbestos-atcm/reg_advisory.pdf. Accessed August 18, 2024

_____. 2021. *Air Toxics Control Programs Health Risk Assessment Guidelines*. Available at: https://www.baaqmd.gov/~media/dotgov/files/rules/reg-2-permits/2021-amendments/documents/20211215_hraguidelines-pdf.pdf?la=en&rev=eb18ff83f96049fa84d54552b58baee3&utm

Neighborhood Scout. 2024. Holiday Lake Estates Neighborhood Profile. Accessed November 2024.

Office of Environmental Health Hazard Assessment (OEHHA). 2015. Air Toxics Hot Spots Program Risk Assessment Guidelines, Guidance Manual for Preparation of Health Risk Assessments. <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>. Accessed June 8, 2021.

URS. 2021. Anderson Dam Seismic Retrofit Project Naturally Occurring Asbestos (NOA) and Metals Evaluation Report. Prepared for Santa Clara Valley Water District. January 22.



Santa Clara Valley Water District
5750 Almaden Expressway, San José, CA 95118-3686
Phone: (408) 265-2600 Fax: (408) 266-0271
www.valleywater.org