APPENDIX C
Friant-Kern Canal Middle Reach Capacity Correction Project
Regulatory Setting

Bureau of Reclamation
Interior Region 10 California-Great Basin
California*, Nevada*, Oregon*
***Partial**

September 2020

This appendix describes the regulatory setting for the resources and topics evaluated in the Friant-Kern Canal Middle Reach Capacity Correction Project (Project) Final Environmental Impact Statement/Environmental Impact Report (Final EIS/R). The regulatory setting provides a description of key policies and regulations that are applicable, either directly (e.g., requires a permitting action by a regulatory agency) or indirectly (e.g., requires that the project is conducted in compliance with the law), that are applicable to the Project. Acronyms and abbreviations used in this appendix are listed in Appendix A of the Final EIS/R.

Air Quality

Federal

Clean Air Act and National Ambient Air Quality Standards

The federal Clean Air Act (CAA), promulgated in 1963 and amended several times thereafter, including the 1990 amendments, establishes the framework for modern air pollution control. The CAA directs the U.S. Environmental Protection Agency (EPA) to establish national ambient air quality standards (NAAQS) for six criteria pollutants: ozone (O_3), carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO_2), sulfur dioxide (SO_2), and particulate matter (PM). The NAAQS are divided into primary and secondary standards; the primary standards are set to protect human health within an adequate margin of safety, and the secondary standards are set to protect environmental values, such as plant and animal life. Table C-1 summarizes the NAAQS and the California Ambient Air Quality Standards (CAAQS). The CAAQS are described below under California Clean Air Act and California Ambient Air Quality Standards.

Table C-1. National and California Ambient Air Quality Standards

Pollutant	Averaging Time	California Standards[1,3]	National Standards[2] (Primary[3,4])	National Standards[2] (Secondary[3,5])
Ozone	1 hour	0.09 ppm	N/A	N/A
Ozone	8 hour	(180 µg/m^3)	N/A	N/A
Carbon monoxide	1 hour	0.07 ppm	0.075 ppm	0.075 ppm
Carbon monoxide	8 hour	(137 µg/m^3)	(147 µg/m^3)	(147 µg/m^3)
Nitrogen dioxide	Annual average	9 ppm	9 ppm	N/A
Nitrogen dioxide	1 hour	(10 mg/m^3)	(10 mg/m^3)	N/A
Sulfur dioxide	Annual average	20 ppm	35 ppm	N/A
Sulfur dioxide	24 hour	(23 mg/m^3)	(40 mg/m^3)	N/A
Sulfur dioxide	3 hour	0.03 ppm	0.053 ppm	0.053 ppm
Sulfur dioxide	1 hour	(57 mg/m^3)	(100 µg/m^3)	(100 µg/m^3)
PM10	Annual	0.18 ppm	N/A	N/A
PM10	24 hour	(339 mg/m^3)	N/A	N/A
PM2.5	Annual	N/A	80 µg/m^3	N/A

Pollutant	Averaging Time	California Standards[1,3]	National Standards[2] (Primary[3,4])	National Standards[2] (Secondary[3,5])
PM2.5	24 hour	N/A	(0.03 ppm)	N/A
Lead[6, 7]	30 day	0.04 ppm	0.14 ppm	N/A
Lead[6, 7]	Quarterly	(105 mg/m^3)	(365 µg/m^3)	N/A
Lead[6, 7]	Rolling 3-month average[7]	N/A	N/A	0.5 ppm
Hydrogen sulfide	1 hour	N/A	N/A	1,300 µg/m^3
Vinyl chloride[6]	24 hour	0.25 ppm	N/A	N/A
Visibility	1 observation	Extinction coefficient of 0.23 per kilometer; visibility of 10 miles or more due to particles when relative humidity is less than 70 percent.	N/A	N/A

Source: CARB 2016.
Key: µg/m^3 = micrograms per cubic meter; mg/m^3 = milligrams per cubic meter; ppm = parts per million; N/A = not applicable
Notes:
(1) California standards for ozone, carbon monoxide, sulfur dioxide (1- and 24-hour), nitrogen dioxide, particulate matter (PM) 10 and PM 2.5, and visibility reducing particles are values that are not to be exceeded. All others are not to be equaled or exceeded.
(2) National standards, other than ozone, particulate matter, and those based on annual averages or annual arithmetic mean, are not to be exceeded more than once a year. The ozone standard is attained when the fourth highest 8-hour concentration in a year, averaged over 3 years, is equal to or less than the standard. For PM_{10}, the 24-hour standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m^3 is equal to or less than one. For $PM_{2.5}$, the 24-hour standard is attained when 98 percent of the daily concentrations, averaged over 3 years, are equal to or less than the standard.
(3) Concentration expressed first in units in which it was promulgated. Equivalent units given in parentheses are based on a reference temperature of 250^C and a reference pressure of 760 torr. Most measurements of air quality are to be corrected to a reference temperature of 250^C and a reference pressure of 760 torr; ppm in this table refers to parts per million by volume (ppmv), or micromoles of pollutant per mole of gas.
(4) National Primary Standards: The levels of air quality necessary, with an adequate margin of safety, to protect the public health.
(5) National Secondary Standards: The levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.
(6) The CARB has identified lead and vinyl chloride as “toxic air contaminants,” with no threshold level of exposure for adverse health effects determined. These actions allow for the implementation of control measures at levels below the ambient concentrations specified for these pollutants.
(7) National lead standard, rolling 3-month average; final rule signed October 15, 2008.

The CAA requires states to submit a State Implementation Plan (SIP) for areas in nonattainment for NAAQS. The SIP, which is reviewed and approved by the EPA, must demonstrate how the NAAQS would be achieved. Failing to submit a plan or secure approval can lead to denial of federal funding and permits. In cases where the SIP fails to demonstrate achievement of the standards, the EPA is directed to prepare a federal implementation plan. Section 176 of the CAA prohibits federal agencies from engaging in or supporting an action or activity that does not conform to an applicable SIP. Actions and activities must conform to a SIP’s purpose of eliminating or reducing the severity and number of violations of the NAAQS and in attaining those standards expeditiously.

Any federal agency providing financial assistance, issuing a license or permit, or approving or supporting in any way a proposed project located in a nonattainment or maintenance area for a criteria air pollutant is required to issue a conformity analysis. The conformity analysis must certify that the federally permitted project is consistent with the SIP developed pursuant to the CAA. A conformity analysis is required unless the proposed action's emissions are below the federally established *de minimis* emissions thresholds, and the proposed action's emissions do not reach the level of 10 percent or more of the regional emissions budget for any given pollutant in the nonattainment area. This is also applicable to short-term, construction-related emissions, and therefore applies to the Project.

Clean Air Non-Road Diesel Rule

To reduce emissions from off-road diesel equipment, EPA established a series of increasingly strict emissions standards for new engines. Locomotives and marine vessels are exempt from this rule. Manufacturers of off-road diesel engines are required to produce engines meeting certain emissions standards based on the model year the engine was manufactured in accordance with the following compliance schedule:

- Tier 1 standards were phased in from 1996 to 2000 (year of manufacture), depending on the engine horsepower category
- Tier 2 standards were phased in from 2001 to 2006
- Tier 3 standards were phased in from 2006 to 2008
- Tier 4 standards, which require add-on emissions-control equipment to attain them, were phased in from 2008 to 2015

Equipment that would be used to construct the project would be in compliance with these emissions standards.

State

The California Air Resources Board (CARB) is responsible for establishing and reviewing the state standards, compiling the California SIP and securing approval of that plan from the EPA, conducting research and planning, and identifying toxic air contaminates (TACs). CARB also regulates mobile sources of emissions in California, such as construction equipment, trucks, and automobiles, and oversees the activities of California's air quality management districts, which are organized at the county or regional level. Air quality management districts are primarily responsible for regulating stationary sources at industrial and commercial facilities within their geographic areas and for preparing the air quality plans that are required under the federal and California CAAs.

California Clean Air Act and California Ambient Air Quality Standards

In 1988, the State Legislature adopted the California CAA, which established a statewide air pollution control program. Unlike the federal CAA, the California CAA does not set precise attainment deadlines. Instead, the California CAA requires all air districts in the state to endeavor to meet the CAAQS by the earliest practical date. Each air district's clean air plan is specifically

designed to attain the standards and must be designed to achieve an annual 5 percent reduction in district-wide emissions of each nonattainment pollutant or its precursors. When an air district is unable to achieve a 5 percent annual reduction, the adoption of all feasible measures on an expeditious schedule is acceptable as an alternative strategy (Health and Safety Code Section 40914[b][2]). CAAQS are generally more stringent than NAAQS and incorporate additional standards for sulfates, hydrogen sulfide (H_2S), vinyl chloride (C_2H_3Cl), and visibility-reducing particles.

CARB and local air districts are responsible for achieving the CAAQS, which are to be met through district-level air quality management plans that would be incorporated into the SIP. In California, the EPA has delegated authority to prepare SIPs to CARB, which, in turn, has delegated that authority to individual air districts. Traditionally, the CARB has established state air quality standards, maintains oversight authority in air quality planning, develops programs for reducing emissions from motor vehicles, develops air emissions inventories, collects air quality and meteorological data, and approves SIPs.

The California CAA substantially adds to the authority and responsibilities of air districts. It designates air districts as lead air quality planning agencies, requires air districts to prepare air quality plans, and grants air districts authority to implement transportation control measures. It also emphasizes the control of indirect and area-wide sources of air pollutant emissions and gives local air pollution control districts explicit authority to regulate indirect sources of air pollution. The Project would comply with the California CAA by adhering to the regulations established by the local air district, as described below.

Local

San Joaquin Valley Air Pollution Control District

The Project area is located within the jurisdiction of the San Joaquin Valley Air Pollution Control District (SJVAPCD), which regulates air pollutant emissions for all sources throughout the San Joaquin Valley Air Basin (SJVAB) other than motor vehicles. The SJVAPCD enforces regulations and administers permits governing stationary sources. The SJVAPCD has developed the Guidance for Assessing and Mitigating Air Quality Impacts to provide technical guidance for the review of air quality impacts as they relate to projects within its jurisdiction (SJVAPCD 2015).

SJVAPCD also has numerous rules and regulations that are enforced by the California Health and Safety Code. The following rules, regulations, and plans would be required for the Project:

- **Regulation IV (Prohibitions).** Regulation IV contains rules developed pursuant to EPA guidance for specific prohibitions for the region. Rule 4101, Visibility, limits the visible plume from any source to 20 percent opacity. Rule 4102, Nuisance, prohibits the discharge of air contaminants or other materials in quantities that may cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public or that endanger the comfort, repose, health, or safety of any such person or the public.

- **Regulation VIII (Fugitive PM10 Prohibitions).** Regulation VIII contains rules developed pursuant to EPA guidance for serious particulate matter less than 10

micrometers in diameter (PM_{10}) nonattainment areas. Rules included under this regulation limit fugitive PM_{10} emissions from the following sources: construction, demolition, excavation, extraction, and other earth-moving activities, bulk materials handling, carryout and track-out, open areas, paved and unpaved roads, unpaved vehicle/equipment traffic areas, and agricultural sources. The Applicant would be required to implement the following control measures during project construction activities pursuant to Rule 8021, Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities:

- A.1: Pre-water site sufficient to limit visible dust emissions (VDE) to 20 percent opacity.
- A.2: Phase work to reduce the amount of disturbed surface area at any one time.
- B.1: Apply water or chemical/organic stabilizers/suppressants sufficient to limit VDE to 20 percent opacity.
- B.2: Construct and maintain wind barriers sufficient to limit VDE to 20 percent opacity. If using wind barriers, control measure B.1 above shall also be implemented.
- B.3: Apply water or chemical/organic stabilizers/suppressants to unpaved haul/access roads and unpaved vehicle/equipment traffic areas sufficient to limit VDE to 20 percent opacity and meet the conditions of a stabilized unpaved road surface.
- C.1: Restrict vehicular access to the area.
- C.2: Apply water or chemical/organic stabilizers/suppressants, sufficient to comply with the conditions of a stabilized surface. If an area having 0.5 acre or more of disturbed surface area remains unused for seven or more days, the area must comply with the conditions for a stabilized surface area as defined in section 3.58 of Rule 8011.
- 5.3.1: An owner/operator shall limit the speed of vehicles traveling on uncontrolled unpaved access/haul roads within construction sites to a maximum of 15 miles per hour.
- 5.3.2: An owner/operator shall post speed limit signs that meet state and federal Department of Transportation standards at each construction site's uncontrolled unpaved access/haul road entrance. At a minimum, speed limit signs shall also be posted at least every 500 feet and shall be readable in both directions of travel along uncontrolled unpaved access/haul roads.
- 5.4.1: Cease outdoor construction, excavation, extraction, and other earthmoving activities that disturb the soil whenever VDE exceed 20 percent opacity. Indoor activities such as electrical, plumbing, dry wall installation, painting, and any other activity that does not cause any disturbances to the soil are not subject to this requirement.
- 5.4.2: Continue operation of water trucks/devices when outdoor construction excavation, extraction, and other earthmoving activities cease, unless unsafe to do so.
- 6.3.1: An owner/operator shall submit a Dust Control Plan to the Air Pollution Control Officer (APCO) prior to the start of any construction activity on any site that

will include 10 acres or more of disturbed surface area for residential developments, or 5 acres or more of disturbed surface area for non-residential development, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials on at least three days. Construction activities shall not commence until the APCO has approved or conditionally approved the Dust Control Plan. An owner/operator shall provide written notification to the APCO within 10 days prior to the commencement of earthmoving activities via fax or mail. The requirement to submit a dust control plan shall apply to all such activities conducted for residential and non-residential (e.g., commercial, industrial, or institutional) purposes or conducted by any governmental entity.

  - 6.3.3: The Dust Control Plan shall describe all fugitive dust control measures to be implemented before, during, and after any dust generating activity.
  - 6.3.4: A Dust Control Plan shall contain all the [administrative] information described in Section 6.3.6 of this rule. The APCO shall approve, disapprove, or conditionally approve the Dust Control Plan within 30 days of plan submittal. A Dust Control Plan is deemed automatically approved if, after 30 days following receipt by the District, the District does not provide any comments to the owner/operator regarding the Dust Control Plan.

- **Rule 4102 (Nuisance).** Rule 4102 prohibits the discharge of air contaminants or other materials in quantities that may cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health, or safety of any such person or the public.

- **Rule 9510 (Indirect Source Review)**. Rule 9510 requires certain development projects to mitigate exhaust emissions from construction equipment greater than 50 horsepower to 20 percent below statewide average nitrogen oxide (NOx) emissions and 45 percent below statewide average PM10 exhaust emissions. This rule also requires applicants to reduce baseline emissions of NOx and PM10 emissions associated with operations by 33.3 percent and 50 percent, respectively, over a period of 10 years.

Air Quality Management Plans

As required by the federal and California CAAs, air basins or portions thereof have been classified as either "attainment" or "nonattainment" for each criteria air pollutant, based on whether the standards have been achieved. Jurisdictions of nonattainment areas also are required to prepare an Air Quality Management Plan (AQMP) that includes strategies for achieving attainment. The SJVAPCD has approved AQMPs demonstrating how the SJVAB will reach attainment with the federal 1-hour and 8-hour ozone, PM_{10}, and $PM_{2.5}$ and the California CO standards.

The SJVAPCD's most recent AQMP for ozone attainment is the 2016 Plan for the 2008 Eight-Hour Ozone Standard, which was adopted by the SJVAPCD in June 2016. The purpose of this plan is to achieve attainment with the federal 8-hour ozone ambient air quality standards in the SJVAB by 2031 (SJVAPCD 2016).

The 2007 Ozone Plan, approved by CARB on June 14, 2007, demonstrates how the SJVAB would meet the federal 8-hour ozone standard. The 2007 Ozone Plan includes a comprehensive

list of regulatory and incentive-based measures to reduce emissions of ozone and particulate matter precursors throughout the SJVAB. Additionally, this plan calls for major advancements in pollution control technologies for mobile and stationary sources of air pollution, and an increase in state and federal funding for incentive-based measures to create adequate reductions in emissions to bring the entire SJVAB into attainment with the federal 8-hour ozone standard. The 2016 Plan for the 2008 8-Hour Ozone Standard was adopted in June 2016 and ensures the attainment of the 75 parts per billion 8-hour ozone standard (SJVAPCD 2007a).

In June 2007, the SJVAPCD Board adopted the 2007 PM10 Maintenance Plan and Request for Redesignation. This plan demonstrates how PM_{10} attainment in the SJVAB will be maintained in the future. Effective November 12, 2008, the EPA redesignated the SJVAB to attainment for the PM_{10} NAAQS and approved the 2007 PM_{10} Maintenance Plan (SJVAPCD 2007b). In April 2008, the SJVAPCD Board adopted the 2008 $PM_{2.5}$ Plan and approved amendments to Chapter 6 of the 2008 $PM_{2.5}$ Plan on June 17, 2010. This plan was designed to addresses the EPA's annual $PM_{2.5}$ standard of 15 µg/m³, which was established by the EPA in 1997. In December 2012, the SJVAPCD adopted the 2012 $PM_{2.5}$ Plan, which addresses the EPA's 24-hour $PM_{2.5}$ standard of 35 µg/m³, which was established by the EPA in 2006. In April 2015, the SVAPCD adopted the 2015 Plan for the 1997 $PM_{2.5}$ standard and adopted the 2016 Moderate Area Plan for the 2012 $PM_{2.5}$ standard in September 2016. Then on November 15, 2018, the SVAPCD adopted the 2018 Plan for the 1997, 2006, and 2012 $PM_{2.5}$ standards to create an attainment strategy for the multiple $PM_{2.5}$ standards (SJVAPCD 2018).

Kern County General Plan

The Kern County General Plan includes the following policies related to air quality that are relevant to the Project:

- **Policy 19**: In considering discretionary projects for which an Environmental Impact Report must be prepared pursuant to the California Environmental Quality Act, the appropriate decision making body, as part of its deliberations, will ensure that:
  - All feasible mitigation to reduce significant adverse air quality impacts have been adopted; and
  - The benefits of the proposed project outweigh any unavoidable significant adverse effects on air quality found to exist after inclusion of all feasible mitigation. This finding shall be made in a statement of overriding considerations and shall be supported by factual evidence to the extent that such a statement is required pursuant to the California Environmental Quality Act.
- **Policy 20:** The County shall include fugitive dust control measures as a requirement for discretionary projects and as required by the adopted rules and regulations of the San Joaquin Valley Unified Air Pollution Control District and the Kern County Air Pollution Control District on ministerial permits.

Tulare County General Plan

The Tulare County General Plan has a number of policies that apply to projects in Tulare County. General Plan goals and policies that are related to the Project are provided below.

- **Goal AQ-1:** To improve air quality through a regional approach and interagency cooperation.
  - **Policy AQ-1.3. Cumulative Air Quality Impacts.** The County shall require development to be located, designed, and constructed in a manner that would minimize cumulative air quality impacts. Applicants shall be required to propose alternatives as part of the State CEQA process that reduce air emissions and enhance, rather than harm, the environment.
  - **Policy AQ-1.5. California Environmental Quality Act (CEQA) Compliance.** The County shall ensure that air quality impacts identified during the CEQA review process are consistently and reasonable mitigated when feasible.
  - **Policy AQ-1.9. Support Off-Site Measures to Reduce Greenhouse Gas Emissions.** The County will support and encourage the use of off-site measures or the purchase of carbon offsets to reduce greenhouse gas emissions.
- **Goal AQ-4:** To implement the best available controls and monitoring necessary to regulate air emissions.
  - **Policy AQ-4.2. Dust Suppression Measures.** The County shall require developers to implement dust suppression measures during excavation, grading, and site preparation activities consistent with SJVAPCD Regulation VIII – Fugitive Dust Prohibitions. Techniques may include, but are not limited to, the following:
    1. Site watering or application of dust suppressants,
    2. Phasing or extension of grading operations,
    3. Covering of stockpiles,
    4. Suspension of grading activities during high wind periods (typically winds greater than 25 miles per hour), and
    5. Revegetation of graded areas.
  - **Policy AQ-4.6. Asbestos Airborne Toxic Control and Dust Protection.** Asbestos is of concern to Tulare County because it occurs naturally in surface deposits of several types of ultramafic materials (materials that contain magnesium and iron and a very small amount of silica). Asbestos emissions can result from the sale or use of asbestos-containing materials, road surfacing with such materials, grading activities, and surface mining. See Implementation Measure 15.

Biological Resources

Federal

Federal Endangered Species Act

The federal Endangered Species Act of 1973 (FESA) was established to protect and recover imperiled species and the ecosystems on which they depend. The U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service administer the act and are responsible for consulting with other federal agencies under Section 7 of the FESA to ensure that their actions do not jeopardize the continued existence of endangered or threatened plant and animal species or result in the destruction or adverse modification of designated critical habitat for these species. Reclamation has completed consultation on the Project with the USFWS pursuant to Section 7 of the FESA.

Clean Water Act

The objective of the Clean Water Act (CWA) of 1977, as amended, is to maintain and restore the chemical, physical, and biological integrity of the nation's waters. In 1987, the U.S. Army Corps of Engineers (USACE) published a manual standardizing the manner in which wetlands are to be delineated nationwide. A regional supplement to the manual for the Arid West Region, which includes the project area, was published by the USACE in 2008. To determine whether areas that appear to be wetlands are subject to USACE jurisdiction (i.e., are federally jurisdictional wetlands), a wetland delineation must be conducted, and the resulting map of the wetland boundaries must be verified in writing by USACE. Wetlands generally include riparian areas, swamps, marshes, bogs, and similar areas. In addition to verifying wetlands for federal jurisdiction, the USACE is responsible for the issuance of CWA Section 404 permits for projects that include the temporary or permanent discharge of dredged or fill material into federally jurisdictional wetlands or other waters of the United States (e.g., streams). Projects are permitted under either individual or general (e.g., nationwide) permits. Project that require permitting under an individual permit must also comply with the CWA Section 404(b)(1) Guidelines by demonstrating that that there is no less environmentally damaging practicable alternative that achieves the Applicant's project purpose. In addition, no discharge can be permitted if it would cause or contribute to significant degradation of waters. Some activities in federally jurisdictional wetlands and other waters of the United States are exempt from the CWA Section 404 permitting requirements under the CWA Section 404(f) exemptions, such as those for normal farming activities or the construction and maintenance of irrigation ditches. Applicants for Section 404 permits are also required to obtain water quality certification through the state (State Water Resources Control Board [State Water Board] or the Regional Water Quality Control Board [Regional Water Board] in California) under Section 401 of the CWA. Reclamation and FWA will comply with the CWA by obtaining any necessary permits under the CWA. Reclamation is currently coordinating with the USACE pursuant to CWA Section 404.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) of 1918 enacts the provisions of treaties between the United States, Great Britain, Mexico, Japan, and the Soviet Union and authorizes the U.S. Secretary of the Interior to protect and regulate the taking of migratory birds. This treaty makes it unlawful to take, possess, buy, sell, purchase, or barter any migratory bird listed under the act,

including feathers or other parts, nests, eggs, or products, except as allowed by implementing regulations. The Project would be implemented in compliance with the MBTA.

Bald and Golden Eagle Protection Act

The bald eagle (*Haliaeetus leucocephalus*) and golden eagle (*Aquila chrysaetos*) are federally protected under the Bald and Golden Eagle Protection Act (16 United States Code [USC] 668-668c). It is illegal to take, possess, sell, purchase, barter, offer to sell or purchase or barter, transport, export or import a bald or golden eagle, alive or dead, or any part, nest or egg of these eagles unless authorized by the Secretary of the Interior. Violators are subject to fines and/or imprisonment for up to one year. Active nest sites are also protected from disturbance during the breeding season. The Project would be implemented in compliance with the Bald and Golden Eagle Protection Act.

Executive Orders

Federal agencies are required to demonstrate that their actions comply with Presidential executive orders (EOs) established to protect the environment. Relevant EOs under which the Project would be implemented include the following:

- **EO 11990 (Wetlands):** For projects that could affect wetlands, federal agencies are required to demonstrate that no practicable alternative exists to avoid the wetland(s) and that all practicable avoidance, mitigation, and/or preservation measures have been incorporated into the Project to minimize impacts to wetlands. Federal agencies are also required to provide opportunity for early public review of any plans or proposals for new construction in wetlands.

- **EO 11988 (Floodplain Management):** For projects that may be located in a floodplain, federal agencies are required to evaluate the effects of the action on the floodplain and identify practicable alternatives or measures to avoid long- and short-term adverse impacts associated with the occupancy and modification of the floodplain and to avoid incompatible development in the floodplain.

- **EO 13112 (Invasive Species):** Federal agencies are required to prevent the introduction of invasive species and not authorize actions that could cause or promote the introduction or spread of invasive species. Federal agencies need to identify feasible and prudent measures to minimize the risk of harm caused by invasive species.

- **EO 13186 (Migratory Birds):** Federal agencies are required to evaluate the effects of their actions on migratory birds, with emphasis on species of concern, and to minimize the take of migratory birds through development of procedures for evaluating such take and conservation efforts in coordination with the USFWS. This EO further implements the MBTA and requires coordination between the USFWS and other federal agencies.

State

California Endangered Species Act

The California Endangered Species Act (CESA) prohibits "take" of state-listed species and protects native species of fish, amphibians, reptiles, birds, mammals, invertebrates, and plants,

and their habitats, that are threatened with extinction or experiencing a significant decline which, if not halted, would lead to a threatened or endangered designation. Take is defined in Section 86 of the Fish and Game Code as to "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." CESA authorizes the California Department of Fish and Wildlife (CDFW) to issue incidental take permits for state-listed species, when specific criteria are met. FWA will obtain an incidental take permit if take of any state-listed species is expected.

Fish and Game Code

The California Fish and Game Code has several provisions for the protection of waters of the state and the state's plant, fish, and wildlife resources, including the following relevant sections:

- **Sections 1600–1616 (Streambed Alteration):** The CDFW is responsible for the protection and conservation of fish and wildlife resources in California. Under Section 1602, CDFW has the authority to issue lake or streambed alteration agreements for construction activities that would substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake designated by the CDFW as providing resources for fish or wildlife. FWA will obtain a lake or streambed alteration agreement for all resources within the jurisdiction of CDFW prior to project implementation.

- **Sections 1900–1913 (Native Plant Protection Act):** The Native Plant Protection Act prohibits the taking, possessing, or sale within the state of any plants that the CDFW has determined are rare, threatened, or endangered. The CDFW has the authority to enforce the provisions of this act and authorize measures to salvage native plants that may otherwise be affected by project activities, if deemed appropriate.

- **Sections 3500–3516 (Migratory Birds, Game Birds, and Birds of Prey):** CDFW protects migratory birds, game birds, and birds of prey from take or possession, except as otherwise provided by the code (e.g., incidental take under CESA). FWA will obtain an incidental take permit if take of any state-listed bird species is expected.

- **Sections 3511, 4700, 5050, and 5515 (Fully Protected Species):** California statutes accord a "fully protected" status to a number of specifically identified birds, mammals, reptiles, amphibians, and fish. These species cannot be "taken," and no take permit provision exists. FWA will comply with these statutes by implementing the project to avoid impacting any "fully protected" species.

Local

Tulare County General Plan 2030 Update

The Tulare County General Plan 2030 Update addresses biological resources in the Environmental Resources Management (ERM) Section. The goal of ERM-1 is to preserve and protect sensitive habitats, enhance biodiversity, and promote healthy ecosystems throughout the county. The following goals under ERM-1 will be adhered to, to the extent practicable, during Project implementation:

ERM-1.1 Protection of Rare and Endangered Species
The County shall ensure the protection of environmentally sensitive wildlife and plant life, including those species designated as rare, threatened, and/or endangered by the State and/or Federal government, through compatible land use development.

ERM-1.2 Development in Environmentally Sensitive Areas
The County shall limit or modify proposed development within areas that contain sensitive habitat for special-status species and direct development into less significant habitat areas. Development in natural habitats shall be controlled so as to minimize erosion and maximize beneficial vegetative growth.

ERM-1.4 Protect Riparian Areas
The County shall protect riparian areas through habitat preservation, designation as open space or recreational land uses, bank stabilization, and development controls.

ERM-1.6 Management of Wetlands
The County shall support the preservation and management of wetland and riparian plant communities for passive recreation, groundwater recharge, and wildlife habitats.

ERM-1.7 Planting of Native Vegetation
The County shall encourage the planting of native trees, shrubs, and grasslands in order to preserve the visual integrity of the landscape, provide habitat conditions suitable for native vegetation and wildlife, and ensure that a maximum number and variety of well-adapted plants are maintained.

Kern County General Plan

The Kern County General Plan addresses biological resources in the Resources Section of Chapter 1, Land Use. Section 1.10.5, Threatened and Endangered Species, includes policies and implementation measures to protect state and federally listed threatened or endangered wildlife and plant species throughout the county. The following policies will be adhered to during Project implementation:

Policy 27 Threatened or endangered plant and wildlife species should be protected in accordance with State and federal laws.

Policy 28 The County should work closely with State and federal agencies to assure that discretionary projects avoid or minimize impacts to fish, wildlife, and botanical resources.

Policy 29 The County will seek cooperative efforts with local, State, and federal agencies to protect listed threatened and endangered plant and wildlife species through the use of conservation plans and other methods promoting management and conservation of habitat lands.

Policy 30 The County will promote public awareness of endangered species laws to help educate property owners and the development community of local, State, and federal programs concerning endangered species conservation issues.

Implementation Measure Q

Discretionary projects shall consider effects to biological resources as required by the California Environmental Quality Act.

Implementation Measure R

Consult and consider the comments from responsible and trustee and wildlife agencies when reviewing a discretionary project subject to the California Environmental Quality Act.

Implementation Measure S

Pursue the development and implementation of conservation programs with State and federal wildlife agencies for property owners desiring streamlined endangered species mitigation programs.

Cultural Resources

Federal

National Historic Preservation Act

The National Historic Preservation Act of 1966, as amended, requires federal agencies, or those they fund or permit, to consider the effects of their actions on historic properties. The Advisory Council on Historic Preservation's (ACHP's) Section 106 implementing regulations (36 Code of Federal Regulations [CFR] Part 800) define "historic properties" as follows:

> *Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization that meet the National Register criteria (36 CFR Part 800.16[l]).*

To determine whether an undertaking could affect National Register of Historic Places (NRHP) eligible properties, cultural resources, including archaeological, ethnographical, and architectural properties, must be inventoried and evaluated for listing in the NRHP. For a property to be considered for inclusion in the NRHP, it must be at least 50 years old and meet the criteria for evaluation set forth in 36 CFR Part 60.4, as follows:

- The quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects:

- that are associated with events that have made a significant contribution to the broad patterns of our history (Criterion A);
- that are associated with the lives of persons significant in our past (Criterion B);
- that embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master or that possess high artistic values or that represent a significant and distinguishable entity whose components may lack individual distinction (Criterion C); and/or
- that have yielded, or may be likely to yield, information important in prehistory or history (Criterion D).

To be listed in or determined eligible for the NRHP, a property must not only demonstrate its significance under the criteria for evaluation but must retain its integrity. Integrity is the ability of a property to convey its historic significance. To retain integrity, a property will always possess several if not most of the seven aspects of integrity. These aspects are defined as follows:

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

A full explanation of the procedures for evaluating historic resources can be found in publications issued by the National Park Service, including National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation (Parker and King 1983).

Pursuant to 36 CFR Section 800.5(a), any identified historic properties within a project APE must be subject to the application of the criteria of adverse effect. An adverse effect occurs when an undertaking may directly or indirectly alter the character-defining features of a historic property that qualify it for inclusion in the NRHP in a manner that would diminish its historic integrity. Some examples of adverse effects may include the following:

- Physical destruction of or damage to all or part of the property;

- Alteration of a property, including restoration, rehabilitation, repair, maintenance, and stabilization that is not consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR Part 68);
- Removal of a property from its historic location;
- Change of the character of the property's use or of physical features within the property's setting that contribute to its historic significance; or
- Introduction of visual, atmospheric or audible elements that diminish the integrity of the property's character-defining features.

Upon the application of the criteria of adverse effect, the federal lead agency will propose a finding of effect on historic properties for the entire undertaking. Pursuant to 36 CFR Section 800.5(d), this could result in the federal lead agency determining two potential findings: no adverse effect or adverse effect.

The Section 106 process that is typically associated with NEPA compliance requires consultation of the federal lead agency with other federal, state, and local agencies, the ACHP, the State Historic Preservation Officer, Indian tribes, and interested members of the public, such as historical societies. Throughout the Section 106 process, the federal lead agency and consulting parties work together to identify adverse effects on sites of cultural significance or historic properties and seek ways to avoid, minimize, or mitigate the adverse effects. A Memorandum of Agreement is issued by the participating parties that includes the measures agreed upon to avoid or reduce (i.e., mitigate) adverse effects. For large or complex undertakings, a Programmatic Agreement may also be negotiated to develop a phased approach to historic properties management or alternative Section 106 processes through consultations. Thus, impacts on cultural resources that are included in the NEPA document are addressed through Section 106. Additionally, Reclamation and FWA have conducted outreach to Native American Tribes and will continue to consult with Indian Tribes and Native American tribal representatives who may have knowledge of or an interest in the Project.

State

California Environmental Quality Act

For the purposes of the Project, the CEQA lead agency must consider the effects of its actions on historical resources, traditional cultural resources, and unique archaeological resources. Pursuant to Public Resources Code (PRC) Section 21084.1 and 21084.2, a project that may cause a substantial adverse change in the significance of a historical resource or a tribal cultural resource is a project that may have a significant effect on the environment. Section 21083.2 also requires agencies to determine whether proposed projects would have effects on unique archaeological resources. In addition, PRC Section 21080.3.1 and 21080.3.2 requires consultation with California Native American tribes.

"Historical resource" is a term defined at PRC Section 21084.1 and CEQA Guidelines Section 15064.5 (a). The term embraces any resource listed in or determined to be eligible for listing in the California Register of Historical Resources (CRHR), which is defined at PRC Section 5024.1

and California Code of Regulations (CCR) Section 4852. The CRHR includes resources listed in or formally determined to be eligible for listing in the NRHP, as well as some California State Landmarks and Points of Historical Interest.

Pursuant to CCR Section 15064.5(a)(3), a historical resource is any object, building, structure, site, area, place, record, or manuscript that a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be a historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be historically significant if the resource meets the criteria for listing on the CRHR and retains its historical integrity. The criteria are as follows:

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

"Unique archaeological resource" is a term defined at PRC Section 21083.2 (g). The term means an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

- Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.
- Has a special and particular quality such as being the oldest of its type or the best available example of its type.
- Is directly associated with a scientifically recognized, important prehistoric or historic event or person.

Integrity for built environment resources means the "survival of characteristics that existed during the resource's period of significance." Integrity must also be assessed in relationship to the criterion (or criteria) under which a resource has significance. For example, even where a resource has "lost its historic character or appearance [it] may still have sufficient integrity for the [CRHR] if it maintains the potential to yield significant scientific or historical information or specific data." Integrity is further defined as the ability to "convey the reasons" for the significance of the resource (14 CCR Section 4852[c]).

For archaeological sites, this language means that a site must have a likelihood of yielding useful scientific information or data for research to have integrity if the site is significant for its data potential.

It is possible that cultural resources may not retain sufficient integrity to meet the criteria in the NRHP, but they may still be eligible for listing in the CRHR. It should be noted that the criteria for listing historical resources in the CRHR are consistent with those developed by the National Park Service for listing historic properties in the NRHP but have been modified for state use in order to include a range of resources which better reflect the history of California. Due to the similar evaluation criteria, any historic property that is formally determined eligible for or listed in the NRHP through federal preservation programs administered by the California Office of Historic Preservation (i.e., eligibility determinations through consensus) is automatically included in the CRHR.

In addition, a resource included in a local register of historical resources, as defined in PRC Section 5020.1(k), or identified as significant in an historical resource survey that meets the requirements of PRC Section 5024.1(g) shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant (CCR Section 21084.1 and CCR Section 4850).

Similarly, pursuant to CCR Section 21084.1, the fact that a resource is not listed in, or determined to be eligible for listing in, the CRHR, not included in a local register of historical resources, or identified in an historical resources survey (i.e., meeting the criteria in PRC Section 5024.1[g]) does not preclude a lead agency from determining that the resource may be a historical resource as defined in PRC Sections 5020.1(j) or 5024.1.

Pursuant to CCR Section 15064.5(b), a project with an effect that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment. A substantial adverse change in the significance of a historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings in such a manner that the significance of the historical resource would be materially impaired. The significance of a historical resource is materially impaired when a project does the following:

- Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources; or

- Demolishes or materially alters in an adverse manner those physical characteristics that convey its historical significance and that justify its eligibility for inclusion in the CRHR.

The CEQA lead agency shall identify potentially feasible measures to mitigate significant adverse changes in the significance of a historical resource. These measures must be enforceable through permit conditions, agreements, or other measures (CCR Section 10564.5[b]).

California Health and Safety Code

California law protects Indian human remains and associated cultural items, regardless of their antiquity and provides for the sensitive treatment and disposition of those remains. Section 7050.5(b) of the California Health and Safety Code specifies the protocol to follow when human remains are discovered. The code states:

> *In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined, in accordance with Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code, that the remains are not subject to the provisions of Section 27492 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of death, and the recommendations concerning treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code.*

Sections 8010–8011 of the California Health and Safety Code established the California Native American Graves Protection and Repatriation Act in 2001. The state repatriation policy is consistent with, and facilitates implementation of, the federal Native American Graves Protection and Repatriation Act. The California Native American Graves Protection and Repatriation Act strives to ensure that all California Indian human remains and cultural items are treated with dignity and respect by encouraging voluntary disclosure and return of remains and cultural items by publicly funded agencies and museums in California. The act also provides a mechanism for aiding California Indian tribes, including non-federally recognized tribes, in filing repatriation claims and obtaining responses to those claims.

CCR Section 15064.5, subdivision (e), requires that excavation activities be stopped whenever human remains are uncovered and that the county coroner be called in to assess the remains. If the county coroner determines that the remains are those of an Indian tribe, the Native American Heritage Commission must be contacted within 24 hours. At that time, the lead agency must consult with the appropriate Indian tribes, if any, as identified by the Native American Heritage Commission. CCR Section 15064.5 directs the lead agency, under certain circumstances, to develop an agreement with the Indian tribes for the treatment and disposition of the remains.

Local

The Tulare and Kern counties general plans include goals, policies, and implementation measures for the protection of cultural resources. The Project is consistent with these goals, policies, and implementation measures and, consequently, they are not discussed as part of the impact analysis for either Alternative.

Tulare County

The General Plan for Tulare County includes goals for the protection of cultural resources. The goals are presented in Section 8.6, Cultural Resources: Environmental Resource Management (ERM) and include the following:

- ERM-6 To manage and protect sites of cultural and archaeological importance for the benefit of present and future generations.

- ERM-6.1 Evaluation of Cultural and Archaeological Resources. The County shall participate in and support efforts to identify its significant cultural and archaeological resources using appropriate state and federal standards.

- ERM-6.2 Protection of Resources with Potential State or Federal Designations. The County shall protect cultural and archaeological sites with demonstrated potential for placement on the National Register of Historic Places and/or inclusion in the California State Office of Historic Preservation's California Points of Interest and California Inventory of Historic Resources. Such sites may be of Statewide or local significance and have anthropological, cultural, military, political, architectural, economic, scientific, religious, or other values as determined by a qualified archaeological professional.

- ERM-6.3 Alteration of Sites with Identified Cultural Resources. When planning any development or alteration of a site with identified cultural or archaeological resources, consideration should be given to ways of protecting the resources. Development can be permitted in these areas only after a site-specific investigation has been conducted pursuant to CEQA to define the extent and value of resource, and mitigation measures proposed for any impacts the development may have on the resource.

- ERM-6.4 Mitigation. If preservation of cultural resources is not feasible, every effort shall be made to mitigate impacts, including relocation of structures, adaptive reuse, preservation of facades, and thorough documentation and archival of records.

- ERM-6.5 Cultural Resources Education Programs. The County should support local, State, and national education programs on cultural and archaeological resources.

- ERM-6.6 Historic Structures and Sites. The County shall support public and private efforts to preserve, rehabilitate, and continue the use of historic structures, sites, and parks. Where applicable, preservation efforts shall conform to the current Secretary of the Interior's Standards for the Treatment of Historic Properties and Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.

- ERM-6.7 Cooperation of Property Owners. The County should encourage the cooperation of property owners to treat cultural resources as assets rather than liabilities, and encourage public support for the preservation of these resources.

- ERM-6.8 Solicit Input from Local Native Americans. The County shall continue to solicit input from the local Native American communities in cases where development may result in disturbance to sites containing evidence of Native American activity and/or to sites of cultural importance.

- ERM-6.9 Confidentiality of Archaeological Sites. The County shall, within its power, maintain confidentiality regarding the locations of archaeological sites in order to

preserve and protect these resources from vandalism and the unauthorized removal of artifacts.

- ERM-6.10 Grading Cultural Resources Sites. The County shall ensure all grading activities conform to the County's Grading Ordinance and California Code of Regulations, Title 20, Section 2501 et seq.

Kern County

The General Plan for Kern County includes the following goals, plans, and implementation measures for the protection of cultural resources:

Goals: General Provisions

1. Ensure that the County can accommodate anticipated future growth and development while maintaining a safe and healthful environment and a prosperous economy by preserving valuable natural resources, guiding development away from hazardous areas, and assuring the provision of adequate public services.

Policy: Archaeological, Cultural, and Historical Preservation

21. The County will promote the preservation of cultural and historic resources which provide ties with the past and constitute a heritage value to residents and visitors.

Implementation Measures

J. Coordinate with the California State University, Bakersfield's Archaeology Inventory Center in order to maintain the County's inventory of areas with potential cultural or archaeological significance.

K. The County shall address archaeological and historical resources for discretionary projects in accordance with the California Environmental Quality Act.

L. In areas of known paleontological resources, the County should address the preservation of these resources where feasible.

M. The County shall develop a list of Native American organizations and individuals who desire to be notified of proposed discretionary projects. This notification will be accomplished through the established procedures for discretionary projects and CEQA documents.

N. On a project specific basis, the Planning Department shall evaluate the necessity for the involvement of a qualified Native American monitor for grading construction activities on discretionary projects that are subject to a CEQA document.

Geology and Soils

Federal

Clean Water Act

A description of the CWA is provided in the Hydrology and Water Quality section below.

State

Alquist-Priolo Earthquake Fault Zoning Act

California's Alquist-Priolo Earthquake Fault Zoning Act (PRC Section 2621 et seq.), originally enacted in 1972 as the Alquist-Priolo Special Studies Zones Act and renamed in 1994, is intended to reduce the risk to life and property from surface fault rupture during earthquakes. The act prohibits the location of most types of structures intended for human occupancy across the traces of active faults and strictly regulates construction in the corridors along active faults (earthquake fault zones).

California Building Standards Code

California's minimum standards for the design and construction of buildings, associated facilities, and equipment are provided in the CCR. Many of the applicable standards are found in CCR Title 24, also known as the California Building Standards Code. Other standards applicable to buildings are given in CCR Titles 8, 19, 21, and 25. Design and construction must satisfy CCR requirements.

California Public Resources Code

Section 5097.5 of the California PRC prohibits excavation or removal of any "vertebrate paleontological site or any other archaeological, paleontological or historical feature, situated on public lands, except with express permission of the public agency having jurisdiction over such lands."

Local

County General Plans

As required by state law, all California counties must develop a general plan. A general plan serves as a statement of county goals, policies, standards, and implementation programs for the physical development of the county. At a minimum, a general plan must address land use, transportation, housing, conservation, open space, noise, and safety. Pertinent general plans for the Project are the Kern County General Plan (2009) and Tulare County General Plan (2012).

Greenhouse Gas and Climate Change

Federal

On April 2, 2007, in *Massachusetts v. USEPA*, 549 US 497, the Supreme Court found that greenhouse gases (GHGs) are air pollutants covered by the CAA. The Court held that the EPA must determine whether emissions of GHGs from new motor vehicles cause or contribute to air pollution, which may be reasonably anticipated to endanger public health or welfare, or whether the science is too uncertain to make a reasoned decision. In making these decisions, the EPA is required to follow the language of Section 202(a) of the CAA.

On April 17, 2009, the EPA Administrator signed proposed "endangerment" and "cause or contribute" findings for GHGs under Section 202(a) of the CAA. The EPA held a 60-day public comment period, considered public comments, and issued final findings. The EPA found that six GHGs taken in combination endanger both the public health and welfare of current and future generations. The EPA also found that the combined emissions of these GHGs from new motor vehicles and new motor vehicle engines contribute to the greenhouse effect as air pollution that endangers public health and welfare under CAA Section 202(a).

In collaboration with the National Highway Traffic Safety Administration, the EPA adopted GHG emissions standards for light-duty vehicles in May 2010 and for heavy-duty vehicles in August 2011. In 2012, the agencies jointly adopted more stringent Phase 2 standards for light-duty cars and trucks, which would cover model years 2017 through 2025. In August 2016, the agencies adopted more stringent Phase 2 standards for medium- and heavy-duty vehicles, which would cover model years 2018 through 2027 for certain trailers and model years 2021 through 2027 for semi-trucks, large pickup trucks, vans, and all types and sizes of buses and work trucks.

President Obama and the EPA announced the Clean Power Plan in August 2015. In 2030, the Clean Power Plan would cut carbon pollution from power plants by 32 percent below 2005 levels and increase renewable energy generation percent to nearly 20 percent of all power supplied. By comparison, in 2015, renewable energy accounted for about 13 percent of electricity generation. However, on February 9, 2016, the U.S. Supreme Court stayed implementation of the Clean Power Plan pending judicial review, and on March 28, 2017, the EO on Energy Independence (EO 13783) was signed and called for a review of the Clean Power Plan.

State

Assembly Bill 32

California Assembly Bill (AB) 32, also known as the Global Warming Solutions Act of 2006 (codified in the California Health and Safety Code, Division 25.5), requires CARB to establish a statewide GHG emissions cap for 2020 based on 1990 emission levels. AB 32 requires CARB to adopt regulations that identify and require selected sectors or categories of emitters of GHGs to report and verify their statewide GHG emissions, and authorizes CARB to enforce compliance with the program. Under AB 32, CARB also was required to adopt a statewide GHG emissions

limit equivalent to the statewide GHG emissions levels in 1990, which must be achieved by 2020. The 2020 GHG emissions limit is 431 million metric tons carbon dioxide equivalent ($MMTCO_2e$) (CARB 2019).

Senate Bill 32

On September 8, 2016, Senate Bill (SB) 32 was signed by Governor Brown; this bill extends the provisions of AB 32 with a goal of reducing the statewide GHG emissions to 40 percent below the 1990 level by 2030.

Climate Change Scoping Plan

In December 2008, CARB approved the AB 32 Scoping Plan outlining the state's strategy to achieve the 2020 GHG emissions limit. The Scoping Plan estimates a reduction of 174 $MMTCO_2e$ (about 191 million U.S. tons) from the transportation, energy, agriculture, forestry, and high climate change–potential sectors, and proposes a comprehensive set of actions designed to reduce overall GHG emissions in California, improve the environment, reduce dependence on oil, diversify California's energy sources, save energy, create new jobs, and enhance public health. The Scoping Plan must be updated every 5 years to evaluate the implementation of AB 32 policies to ensure that California is on track to achieve the 2020 GHG reduction goal. The First Update to the Climate Change Scoping Plan was approved by CARB on May 22, 2014. In 2016, the Legislature passed SB 32, which codified a 2030 GHG emissions reduction target of 40 percent below 1990 levels. With SB 32, the Legislature passed companion legislation AB 197, which provides additional direction for developing the Scoping Plan. On December 14, 2017, CARB approved the Second Update to the Climate Change Scoping Plan, the 2017 Climate Change Scoping Plan: The Strategy for Achieving California's 2030 Greenhouse Gas Target (CARB 2018).

Local

Tulare County Climate Action Plan

The Tulare County Climate Action Plan (CAP) serves as a guiding document for County of Tulare actions to reduce GHG emissions and adapt to the potential effects of climate change. The CAP is an implementation measure of the 2030 Tulare County General Plan. The 2030 General Plan provides the supporting framework for development in the county to produce fewer GHG emissions through the General Plan buildout. The CAP builds on the 2030 General Plan's framework with more specific actions that will be applied to achieve emissions reduction targets consistent with California legislation at the time of drafting (Tulare County 2010c).

The CAP follows a four-step process recommended by the Institute for Local Government, including identification of a baseline year (2007) and emissions inventory; projected future year inventories (2020 and 2030); and provision of policies, regulations, and programs that would achieve reductions by the target years. The policies, regulations, and programs considered in the CAP include those by federal, state, and local governments. The following provides a summary of CAP actions (Tulare County 2010c):

- Identifies sources of GHG emissions caused by activities within the unincorporated areas of Tulare County and estimates how these emissions may change over time.

- Establishes a reduction target for Tulare County's GHG emissions consistent with AB 32 (2006) and CARB Scoping Plan targets. (It requires a reduction of 6 percent on average from new development in excess of those achieved from adopted regulations.)

- Provides energy use, transportation, land use, water conservation, and solid waste strategies to bring Tulare County's GHG emissions levels to the reduction target.

- Mitigates the impacts of Tulare County activities on climate change (by reducing GHG emissions consistent with the direction of the State of California via AB 32, Governor's Order S-03-05, and the 2009 amendments to the CEQA Guidelines to comply with SB 97 [2008]. The CEQA Guidelines encourage the adoption of policies or programs as a means of comprehensively addressing the cumulative impacts of projects (See CEQA Guidelines, Sections 15064(h)(3), 15130(c)).

- Allows the GHG emissions inventory and CAP to be updated every 5 years and to respond to changes in science; effectiveness of emission reduction measures; and federal, state, regional, and local policies to further strengthen the County's response to the challenges of climate change.

- Provides substantial evidence that the emission reductions estimated in the CAP are feasible.

- Serves as the threshold of significance within the County of Tulare for climate change impacts, by which all applicable developments within the County will be reviewed.

- Proposed development projects that are consistent with the emission reduction and adaptation measures included in the CAP and the programs that are developed as a result of the CAP would be considered to have a less than significant cumulative impact on climate change and emissions consistent with CEQA Guidelines 15064(h)(3) as amended to comply with SB 97.

Kern County General Plan

There are no goals or policies in the Kern County General Plan related to GHGs or climate change that are relevant to the Project (Kern County 2009).

Tulare County General Plan

The following policy in the Tulare County General Plan related to GHGs is relevant to the Project (Tulare County 2012):

- **Policy AQ-1.9. Support Off-Site Measures to Reduce Greenhouse Gas Emissions.** The County will support and encourage the use of off-site measures or the purchase of carbon offsets to reduce GHG emissions.

Hazards and Hazardous Materials/Wildfire

Federal

Table C-2 provides a summary of federal environmental hazardous materials laws, ordinances and regulations and indicates the agencies providing regulatory oversight. Selected federal laws and regulations pertaining to public health and hazardous materials in the project area are also discussed briefly below.

Table C-2. Summary of Federal Regulations Applicable to Hazardous Materials, Waste, and Handling

Authority	Administering Agency	Requirements and Compliance
CERCLA, as amended by SARA; Title III, Emergency Planning and Community Right-to-Know Act of 1986; 42 USC 11001 et seq.; 40 CFR Parts 302, 355, 370, and 372.	EPA Region IX; National Response Center; California OES; Kern County Public Health Services Department; Tulare County Health and Human Services – Environmental Health Division	CERCLA release notification requirements; SARA Title III includes reporting requirements for storing, handling, or producing regulated substances.
29 CFR 1910 et seq.; 29 CFR 1926 et seq.	Occupational Safety and Health Administration (OSHA) and California Division of Occupational Safety and Health (DOSH, Cal/OSHA)	Requirements pertaining to employers whose employees handle hazardous materials and extremely hazardous chemicals.
Clean Air Act Amendments of 1990, Section 112(r), Accidental Release Prevention Program, 42 USC 7412 (r); 40 CFR Part 68	EPA Region IX; California OES; Kern County Public Health Services Department; Tulare County Health and Human Services – Environmental Health Division	Requirements pertaining to risk management of regulated substances.
Clean Water Act, Spill Prevention, Control, and Countermeasure Plan, 40 CFR 112	EPA Region IX; Kern County Public Health Services Department; Tulare County Health and Human Services – Environmental Health Division	Requirements designed to prevent the discharge of oil into navigable waters.
RCRA, 42 USC 6901 et seq.; 40 CFR 260 et seq., ;9 CFR 172, 173, and 179	EPA Region IX	Requirements for a hazardous waste generator identification number coordinated through the EPA and the DTSC.

Key: CERCLA = Comprehensive Environmental Response, Compensation, and Liability Act of 1980; CFR = Code of Federal Regulations; DTSC = California Department of Toxic Substances Control; EPA = U.S. Environmental Protection Agency; OES = California Office of Emergency Services; OSHA = Occupational Safety and Health Administration; RCRA = Resource Conservation and Recovery Act; SARA = Superfund Amendments and Reauthorization Act of 1986; USC = United States Code

Hazardous Materials Handling

The EPA, under the authority of the Resource Conservation and Recovery Act (RCRA), is the principal agency regulating the generation, transport, and disposal of hazardous substances at the federal level. The RCRA established an all-encompassing federal regulatory program for hazardous substances that is administered by EPA, which regulates the generation, transportation, treatment, storage, and disposal of hazardous substances. The RCRA was amended in 1984 by the Hazardous and Solid Waste Amendments of 1984, which specifically

prohibits the use of certain techniques to dispose of various hazardous substances. The Federal Emergency Planning and Community Right to Know Act of 1986 imposes hazardous materials planning requirements to help protect local communities in the event of accidental release of hazardous substances. EPA has delegated much of the RCRA requirements for California to the California Department of Toxic Substances Control (DTSC).

Asbestos

The federal CAA, enacted in 1970 with the most recent major amendments by Congress made in 1990, required EPA to establish primary and secondary national ambient air quality standards. It also required each state to prepare an air quality control plan, referred to as a State Implementation Plan. Section 112 of the CAA defines "hazardous air pollutants" and sets threshold limits. Asbestos-containing substances are regulated by EPA under the CAA. Any materials containing asbestos that would be generated from the Project would be handled in accordance with the CAA.

State

Table C-3 provides a summary of state hazardous materials laws, ordinances, and regulations and indicates the agencies providing regulatory oversight. Relevant state laws and regulations pertaining to public health and hazardous materials in the project area are also discussed briefly below.

Table C-3. Summary of State Regulations Applicable to Hazardous Materials, Waste, and Handling

Authority	Administering Agency	Requirements and Compliance
California Health & Safety Code, Chapter 6.95, Art. 1 (Hazardous Materials Release Response Plans and Inventory)	Kern County Public Health Services Department; Tulare County Health and Human Services – Environmental Health Division	Facilities handling hazardous materials are required to submit an HMBP to the Certified Uniform Program Agency.
California Health & Safety Code Section 25270 (Aboveground Storage of Petroleum)	Central Valley Regional Water Quality Control Board	Above-ground petroleum storage tanks must be registered with the State Water Resources Control Board.
8 CCR Section 5194 (Hazard Communication)	Kern County Public Health Services Department; Tulare County Health and Human Services – Environmental Health Division	Requirements pertaining to employers whose employees are exposed to dusts, fumes, mists, vapors, and gases.
California Accidental Release Prevention Program, California Health & Safety Code Section 25531 et seq.; 19 CCR Division 2, Chapter 4.5	California OES, Kern County Public Health Services Department; Tulare County Health and Human Services – Environmental Health Division	HMBP requirements and requirements to prepare a risk management plan.
8 CCR (Health, Safety)	Cal/OSHA	Requirements pertaining to hazard recognition and control'

Authority	Administering Agency	Requirements and Compliance
Hazardous Waste Control Act, California Health & Safety Code, 22 CCR Section 66001 et seq.	Kern County Public Health Services Department; Tulare County Health and Human Services – Environmental Health Division	Requirements pertaining to the management of hazardous waste.
22 CCR Section 67100, Hazardous Waste Source Reduction and Management Review	Kern County Public Health Services Department; Tulare County Health and Human Services – Environmental Health Division	Requirements pertaining to waste generators developing a plan for reducing their hazardous wastes.
22 CCR Sections 66260–66270	Kern County Public Health Services Department; Tulare County Health and Human Services – Environmental Health Division	Requirements pertaining to hazardous waste regulations for generators and transporters of hazardous wastes and owners of hazardous waste treatment, storage, and disposal facilities.
Porter-Cologne Water Quality Control Act	Central Valley Regional Water Quality Control Board	Reportable quantities of hazardous wastes and hazardous materials are established by the Regional Water Quality Control Boards based on their potential to degrade the waters of the state.
Uniform Fire Code, Article 80 and others	Kern County Fire Department; Tulare County Fire Department	Provisions regarding fire protection and neutralization systems for hazardous materials.
California Vehicle Code Section 32100.5	Caltrans	Requirements for transportation materials that may pose an inhalation hazard.

Key: Cal/OSHA = California Division of Occupational Safety and Health; Caltrans = California Department of Transportation; CCR = California Code of Regulations; HMBP = Hazardous Materials Business Plan; OES = Office of Environmental Services

Hazardous Materials Handling

The California Hazardous Materials Release Response Plans and Inventory Law of 1985 requires preparation of hazardous materials business plans and disclosure of hazardous materials inventories. A business plan includes an inventory of hazardous materials handled, facility floor plans showing where hazardous materials are stored, an emergency response plan, and provisions for employee training in safety and emergency response procedures (Health and Safety Code, Div. 20, Ch. 6.95, Art. 1). Statewide, DTSC has primary regulatory responsibility for managing hazardous materials, with delegation of authority to local jurisdictions that enter into agreements with the state. Local agencies administer these laws and regulations.

Worker Safety Requirements

The California Division of Occupational Safety and Health, also known as Cal/OSHA, is responsible for ensuring worker safety and has primary responsibility for developing and enforcing workplace safety regulations in California. Cal/OSHA sets state standards for implementing exposure limits and safety procedures for the handling of hazardous substances. Cal/OSHA regulations pertaining to the use of hazardous materials in the workplace (CCR, Title 8) include requirements for safety training, availability of safety equipment, accident and illness

prevention programs, hazardous substance exposure warnings, and preparation of emergency action and fire prevention plans.

Emergency Response to Hazardous Materials Incidents

California has developed an emergency response plan to coordinate emergency services provided by federal, state, and local governments and private agencies. Response to hazardous material incidents is one part of this plan. The plan is managed by the Governor's OES, which coordinates the responses of other agencies, including the California Environmental Protection Agency (Cal/EPA), California Highway Patrol (CHP), CDFW, and the Central Valley Regional Water Board.

Hazardous Materials Transport

The U.S. Department of Transportation (DOT) regulates transportation of hazardous materials on interstate roads (e.g., Interstate 5). State agencies with primary responsibility for enforcing federal and state regulations and responding to hazardous materials transportation emergencies are the CHP and the California Department of Transportation (Caltrans). Together, these agencies determine container types used and license hazardous waste haulers for transportation of hazardous waste on public roads.

California Accidental Release Prevention Program

The purpose of the California Accidental Release Prevention Program is to prevent accidental releases of substances that can cause serious harm to the public and the environment, to minimize the damage if releases do occur and to satisfy community right-to-know laws. Any facility that handles regulated substances (chemicals that pose a major threat to public health and safety or the environment because they are highly toxic, flammable, or explosive, including ammonia, chlorine gas, hydrogen, nitric acid, and propane) is required to prepare a risk management plan. A risk management plan describes current and past practices and releases, what the impact of releases may be, and what the facility does or plans to do to prevent releases and minimize impacts if they occur.

Government Code Section 65962.5 (Cortese List)

Government Code Section 65962.5 is commonly referred to as the "Cortese List" (after the legislator who authored the legislation that enacted it). This list is a planning document used by state and local agencies to comply with CEQA requirements to provide information about the location of hazardous materials release sites. Government Code Section 65962.5 requires Cal/EPA to develop an updated Cortese List annually at minimum. The state's DTSC is responsible for a portion of the information contained in the Cortese List. Other state and local government agencies are required to provide additional hazardous material release information for the Cortese List.

Multi-Hazard Mitigation Plan

The OES's State of California Multi-Hazard Mitigation Plan (SHMP) (OES 2018) provides an updated and comprehensive description of California's historical and current hazard analysis, mitigation strategies, goals, and objectives. The SHMP sets the mitigation priorities, strategies, and actions for the state. The plan describes how risk assessment and mitigation strategy information is coordinated and linked from local mitigation plans into the SHMP. State hazard mitigation plans are required to meet the elements outlined in the Federal Emergency

Management Agency's State Mitigation Plan Review Guide (revised March 2015, effective March 2016).

Local

Regional or local plans pertaining to public health and hazardous materials in the project area are discussed below.

General Plans

The Kern County General Plan (2009) and the Tulare County General Plan (2012) identify goals and policies that describe approaches to public health and hazardous materials used by or in each county. The Fresno County General Plan Safety element sets policies on wildland fires (policies described in Section 4.6 of the element) and emergency plans (Section 4.7 of the element), critical facilities (Section 4.8 of the element), and hazardous materials (Section 4.9 of the element). Similarly, the Tulare County General Plan Health and Safety element provides general safety policies (HS-1), as well as policies for hazardous materials (HS-4), urban and wildland fire hazards (HS-6), and emergency response (HS-7).

Hydrology and Water Quality

Federal

Clean Water Act

The CWA is the primary federal legislation governing the water quality aspects of the Project. Several sections of the CWA are pertinent to the Project, namely Sections 303(d), 401, 402, and 404.

Section 303(d) of the CWA requires states to maintain a list of impaired water bodies so that a total maximum daily load can be established. A total maximum daily load is a plan to restore the beneficial uses of a stream or to otherwise correct an impairment. It establishes the allowable pollutant loadings or other quantifiable parameters (e.g., pH, temperature) for a water body and thereby provides the basis for establishing water quality-based controls. Deer Creek is listed as impaired on the 2014/2016 303(d) list for pH, toxicity, and chlorpyrifos, which are from an unknown source, however the Project would have no effect on its listing status.

Section 401 of the CWA requires federal agencies to obtain certification from the relevant state or Native American tribes before issuing permits that would result in increased pollutant loads to a water body. The certification is issued only if such increased loads would not cause or contribute to exceedances of water quality standards. In California, the EPA has designated Section 401 authority to the State Water Board. Reclamation and FWA are coordinating with the State Water Board regarding the Project pursuant to Section 401 of the CWA.

Section 402 of the CWA creates the National Pollutant Discharge Elimination System (NPDES) permit program. This program covers point sources of pollution discharging into a surface water body. Reclamation, FWA and their construction contractor(s) will coordinate with the State Water Board regarding the Project pursuant to Section 402 of the CWA.

Section 404 of the CWA requires a permit from USACE for the discharge of dredged or fill material into "waters of the United States, including wetlands." Waters of the United States include wetlands and lakes, rivers, streams, and their tributaries. Wetlands are defined for regulatory purposes as areas inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support and, under normal circumstances do support, vegetation typically adapted for life in saturated soil conditions. As noted previously, Reclamation is coordinating with the USACE pursuant to Section 404 of the CWA.

State

Porter-Cologne Water Quality Control Act

The Porter-Cologne Water Quality Control Act (Porter-Cologne Act) is California's statutory authority for protecting water quality. Under the act, the state must adopt water quality policies, plans, and objectives protecting the state's waters for the use and enjoyment of people. Obligations of the State Water Board and the Regional Water Boards to adopt and periodically update their Water Quality Control Plans (i.e., Basin Plans) are set forth in the act. A Basin Plan identifies the designated beneficial uses for specific surface water and groundwater resources, applicable water quality objectives necessary to support the beneficial uses, and implementation programs that are established to maintain and protect water quality from degradation for each of the Regional Water Boards. The act also requires waste dischargers to notify the Regional Water Boards of their activities through filing reports of waste discharge and authorizes the State Water Board and the Regional Water Boards to issue and enforce Waste Discharge Requirements, NPDES permits, CWA Section 401 water quality certifications, and other approvals. The Regional Water Boards also have authority to issue waivers for waste discharge reports/Waste Discharge Requirements for broad categories of "low threat" discharge activities that have minimal potential for adverse water quality effects when implemented according to prescribed terms and conditions.

NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities

Construction activities on 1 acre or more are subject to the permitting requirements of the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit) Order No. 2009-0009-DWQ, NPDES No. CAS000002 (State Water Board 2009). The State Water Board established the Construction General Permit program to regulate stormwater discharges from construction sites. The Construction General Permit implements a risk-based permitting approach, specifies minimum best management practice requirements, and requires monitoring and reporting activities. The Construction General Permit establishes three project risk levels that are based on site erosion and receiving-water risk factors. Risk Levels 1, 2, and 3 correspond to low-, medium-, and high-risk levels for a project.

Waste Discharge Requirements for Dewatering and Other Low Threat Discharges to Surface Waters

The General Order for Dewatering and Other Low Threat Discharges to Surface Waters, Central Valley Regional Water Board Order No. R5-2008-0081, is a general permit covering discharges of construction dewatering under the following circumstances: the discharge does "not contain

significant quantities of pollutants and they are either (1) four months or less in duration, or (2) the average dry weather discharge does not exceed 0.25 million gallons per day."

Sustainable Groundwater Management Act

The Sustainable Groundwater Management Act (SGMA), passed in 2014 and amended in 2015, creates a framework for sustainable, local groundwater management. The act defines sustainable groundwater management as the "management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results," such as land subsidence and water quality degradation.

The study area for the Project includes several groundwater basins designated under SGMA as high-priority due to the severity of groundwater overdraft. As a result of this designation, the managing agencies or Groundwater Sustainability Agencies (GSA) in the area are required to adopt Groundwater Sustainability Plans by January 31, 2020. The GSAs have 20 years to implement their Groundwater Sustainability Plans and achieve their sustainability goal in the basins by 2040.

Local

Local surface water regulations can include water supply master plans, general plans, Integrated Regional Water Management Plans, habitat and conservation plans, and land use ordinances, with many of these regulations including goals, objectives, and policies pertaining to the Project area. An example of relevant local water management plans is the Tule Integrated Regional Water Management Plan (2015).

Several county and city general plans cover lands within or near the Project area, including general plans for Tulare (2012) and Kern (2009) counties and the City of Porterville (2007). These general plans have goals, objectives, and policies oriented toward the conservation, protection, and enhancement of streams, rivers, wetlands, and riparian areas. Development and land use ordinance decisions for Tulare and Kern counties and Porterville are considered in view of their consequences related to the general plan goals. General plans also have policies concerning water supply protection and enhancement and coordinate closely with their local water supply master plans.

Land Use and Planning and Agricultural Resources

Federal

Federal Farmland Protection Policy Act

The Federal Farmland Protection Policy Act (FPPA) of 1981 (7 USC Section 4201) requires a federal agency to consider the effects of its actions and programs on the nation's farmlands. FPPA is administered by the Natural Resources Conservation Service (NRCS). The NRCS is authorized to review federal projects to determine whether the project is regulated under the act and to establish a farmland conversion impact rating. The intent of FPPA is to minimize the

unnecessary and irreversible conversion of farmland to nonagricultural use that could result from implementation of a project having a federal nexus. It ensures that federal programs are administered to be compatible with state, local, and private programs and policies to protect farmlands. It does not authorize the federal government to regulate the use of private or nonfederal land or, in any way, affect the property rights of owners.

Projects not subject to FPPA include, but are not limited to, projects planned and completed without the assistance of a federal agency, projects on land already used for water storage, and construction within an existing right-of-way purchased on or before August 4, 1984 (NRCS 2019). Projects that may irreversibly convert farmland to a non-agricultural use, either directly or indirectly, and are completed by a federal agency or with the assistance of a federal agency may be subject to FPPA requirements.

State

California Important Farmland Inventory System and Farmland Mapping and Monitoring Program

The California Department of Conservation (DOC), under the Division of Land Resource Protection, administers the Farmland Mapping and Monitoring Program (FMMP), which monitors conversion of the state's farmland to and from agricultural use. DOC sponsors the FMMP and is also responsible for establishing agricultural easements in accordance with PRC Sections 10250–10255 (California Legislative Information 2019). Every 2 years, these maps are updated with the use of aerial photographs, computer mapping systems, public review, and field reconnaissance. As part of the mapping of agricultural land uses, NRCS developed a series of definitions known as Land Inventory and Monitoring criteria. These criteria classify the suitability of land for agricultural production that includes both the physical and chemical characteristics of soils and the actual land use. Important Farmland maps are derived from NRCS soil survey maps using the Land Inventory and Monitoring criteria and are available by county

Williamson Act: California Land Conservation Act of 1965

The California Land Conservation Act of 1965 (California Government Code, Sections 51200 et seq.), commonly known as the Williamson Act, enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. Agreements are made under a 10-year rolling contract. In return, restricted parcels are assessed for property tax purposes at a rate consistent with their actual use rather than potential market value (DOC 2018). Contract cancellation must be done through a landowner petition that may be tentatively approved by the local government, which must make specific findings that are supported by substantial evidence. Existence of an opportunity for another land use is not sufficient reason for cancellation (DOC 2018). Local governments may identify compatible uses allowed with a use permit.

California Farmland Conservancy Program

The California Farmland Conservancy Program is a statewide grant funding program that supports local efforts to establish agricultural conservation easements and planning projects for the purpose of preserving important agricultural land resources (DOC 2019a). The California

Farmland Conservancy Program provides grants to local governments and qualified nonprofit organizations for the following:

- Voluntary acquisition of conservation easements on agricultural lands that are under pressure of being converted to nonagricultural uses.
- Temporary purchase of agricultural lands that are under pressure of being converted to nonagricultural uses as a phase in the process of placing agricultural conservation easements on farmland.
- Agricultural land conservation policy and planning projects.
- Restoration of and improvements to agricultural land already under easement.

Land Evaluation and Site Assessment Model (California)

Based on the federal Land Evaluation and Site Assessment (LESA) system, the California LESA model was developed in 1997 to provide lead agencies with an optional method to ensure that potentially significant effects on the environment resulting from agricultural land conversions are quantitatively and consistently considered in the environmental review process, including CEQA reviews. The California Agricultural LESA model evaluates measures of soil resource quality, a given project's size, water resource availability, surrounding agricultural lands, and surrounding protected resource lands. For a given project, the factors are rated, weighted, and combined, resulting in a single numeric score. The project score becomes the basis for determining a project's potential significance (DOC 2019b).

Open Space Subvention Act

The Open Space Subvention Act was enacted on January 1, 1972, to provide for the partial replacement of local property tax revenue foregone as a result of participation in the Land Conservation (Williamson) Act and other enforceable open space restriction programs (Government Code Section 16140 et seq.). Participating local governments receive annual payment based on the number of eligible acres, quality (soil type and agricultural productivity), Farmland Security Zone contracts (if applicable), and location (proximity to a city) of land enrolled under eligible enforceable open space restrictions.

State Planning and Zoning Laws

California Government Code section 65300 et seq. establishes the obligation of cities and counties to adopt and implement general plans. A general plan is a comprehensive, long-term strategy document that sets forth the expected location and general type of physical development expected in the city or county developing the document. The plan may also consider land outside its boundaries that, in the city or county's judgment, may affect land use activities within its borders. The general plan addresses a broad range of topics, including, at a minimum, land use, circulation, housing, conservation, open space, noise, and safety. In addressing these topics, the general plan identifies the goals, objectives, policies, principles, standards, and plan proposals that support the city or county's vision for the area. A general plan is a long-range document that typically addresses development over a 20-year period. Although the general plan serves as a blueprint for future development and identifies the overall vision for the planning area, it remains general enough to allow flexibility in the approach taken to achieve the plan's goals.

The State Zoning Law (Government Code, Section 65800 et seq.) establishes that zoning ordinances, which are laws that define allowable land uses in a specific district, are required to be consistent with the general plan and any applicable specific plans. When amendments to the general plan are made, corresponding changes in the zoning ordinance may be required within a reasonable time to ensure that the land uses designated in the general plan also would be allowable by the zoning ordinance (Government Code, Section 65860, subd. (c)).

Local

Tulare and Kern Counties and City of Porterville

The general plans of Tulare and Kern counties and the City of Porterville (in Tulare County) contain goals, policies, and implementation measures to protect agricultural lands, as summarized below.

Tulare County General Plan. The Tulare County General Plan (Tulare County 2012) identifies goals, policies, and implementation measures aimed at conserving large contiguous areas of productive agricultural land. It provides opportunities for the future expansion of such uses and identifies protection measures to alleviate development pressures that would adversely affect or hinder existing or future agricultural operations, including objectives and policies to protect water resources and supply systems critical to agriculture.

Kern County General Plan. The Kern County General Plan (Kern County Planning Department 2009) encourages and supports agricultural resources and land use in Kern County. The goals and policies in the Land Use, Open Space and Conservation Element provide for a variety of land uses for future economic growth while also assuring the conservation of Kern County's agricultural, natural, and resource attributes.

Porterville General Plan. The Porterville 2030 General Plan (City of Porterville 2007) establishes the City's long-range vision and the steps it will take to achieve this vision. The General Plan's Land Use Element provides the framework for land use planning, fostering a compact development pattern with strong urban "edges" in order to protect adjacent agricultural lands. The Open Space and Conservation Element is intended to establish policies and programs for the conservation, development, and use of open space and natural resources, including agricultural and farmland resources.

Tulare County Resource Management Agency

The Tulare County Resource Management Agency oversees actions in the unincorporated areas of the county, providing inspection services, permits, and oversight of the Tulare County General Plan and zoning codes and entitlements. Permits it issues include encroachment permits, which are required for improvements in public rights-of-way and building permits.

Kern County Planning and Natural Resources Department

The Kern County Planning and Natural Resources Department provides consolidated land use planning, including administration of the Kern County General Plan, to effectuate General Plan policies and goals; administration of the county's zoning and land division ordinances; and administration of the Agricultural Preserve Program.

Agricultural Water Management Plans

SGMA is a combination of three bills passed by the California State Legislature and signed by California Governor Jerry Brown: Assembly Bill 1739 and Senate Bills 1168 and 1319. This legislation provides local agencies with the framework to manage groundwater basins in a sustainable manner. Local agencies are tasked with forming groundwater sustainability agencies that will develop and implement groundwater sustainability plans to achieve and manage groundwater sustainability by 2040. The Friant-Kern Canal passes through the portion of Tulare County managed by the East Kaweah GSA. In Kern County, the Poso Creek and Kern Integrated Regional Water Management Plans are comprehensive plans that address region-wide water management and related issues.

Noise

Federal

Federal Noise Control Act of 1972 (40 CFR Section 204)

Public law 92-574 regulates noise levels from operation of all construction equipment and facilities; establishes noise emission standards for construction equipment and other categories of equipment; and provides standards for the testing, inspection, and monitoring of such equipment. This act delegates to states and municipalities primary responsibility for noise control.

State

California Noise Control Act of 1973

The California Noise Control Act declares excessive noise to be a serious hazard to the public health and welfare and established the now defunct Office of Noise Control, which had the responsibility to set standards for noise exposure in cooperation with local governments or the State Legislature. Although the Office of Noise Control is no longer in operation, its guidelines still apply under the act. The California Office of Noise Control land use compatibility guidelines provide the following:

- An exterior noise level of 60 to 65 A-weighted decibel (dBA) community noise level equivalent (CNEL) is considered "normally acceptable" for residences.
- A noise level of 70 dBA CNEL is considered to be "conditionally acceptable" (i.e., the upper limit of "normally acceptable" noise levels for sensitive uses such as schools, libraries, hospitals, nursing homes, churches, parks, offices, and commercial/professional businesses).
- A noise level of greater than 75 dBA CNEL is considered "clearly unacceptable" for residences.

California Department of Health Services

The California Department of Health Services established guidelines to provide a community with a noise environment that it deems to be generally acceptable. Specifically, ranges of noise

exposure levels have been developed for different land uses to serve as the primary tool a city uses to assess the compatibility of land uses and outdoor noise. To achieve a clearly compatible land use/noise zone, a noise level standard of 60 dBA day/night noise level (L_{dn}) is used for the exterior living areas of new single-family, duplex, and mobile home residential land uses. A 45- to 65-dBA L_{dn} noise level standard is used for the interior and exterior of all new multi-family residential uses (State of California, Governor's Office of Planning and Research 2017). When a land use is denoted as "normally acceptable" for the given L_{dn} noise environment, the highest noise level in that range should be considered the maximum desirable for conventional construction that does not incorporate any special acoustic treatment. The acceptability of noise environments classified as "conditionally acceptable" or "normally unacceptable" depends on the anticipated amount of time that will normally be spent outside the structure and the acoustic treatment to be incorporated in the structure's design.

Local

Kern County General Plan

The noise element of a general plan is a mandatory element required by Government Code Section 65302 (f). The state requires that local jurisdictions prepare statements of policy indicating their intentions regarding noise and noise sources, establish desired maximum noise levels according to land use categories, set standards for noise emissions from transportation and fixed-point sources, and prepare implementation measures to control noise. Noise elements are prepared in accordance with Guidelines for the Preparation and Content of Noise Elements of the General Plan, published by the California Office of Noise Control in 1976. The major purpose of the Noise Element of the Kern County General Plan is to establish reasonable standards for maximum desired noise levels in Kern County and to develop an implementation program that could effectively mitigate potential noise problems. The implementation measures have been designed so that they will not subject residential or other noise-sensitive land uses to exterior noise levels in excess of 65 dBA L_{dn} and interior noise levels in excess of 45 dBA L_{dn}. The Kern County General Plan contains additional policies, goals, and implementation measures that are more general in nature and not specific to development such as the Project.

- **Goal 1:** Ensure that residents of Kern County are protected from excessive noise and that moderate levels of noise are maintained.
  - **Policy 1:** Review discretionary, industrial, commercial, or other noise-generating land use projects for compatibility with nearby noise-sensitive land uses.
  - **Policy 2:** Require noise level criteria applied to all categories of land uses to be consistent with the recommendations of the California Division of Occupational Safety and Health.
  - **Policy 3:** Encourage vegetation and landscaping along roadways and adjacent to other noise sources in order to increase absorption of noise.
  - **Policy 4:** Utilize good land use planning principles to reduce conflicts related to noise

- **Policy 6:** Ensure that new development in the vicinity of airports will be compatible with existing and projected airport noise levels as set forth in the Airport Land Use Compatibility Plan.
- **Policy 7:** Employ the best available methods for noise control.

Kern County Noise Ordinance

Chapter 8.36, Noise Control (Section 8.36.020, Prohibited Sounds) of the Ordinance Code of Kern County prohibits construction noise between the hours of 9:00 p.m. and 6:00 a.m. on weekdays and 9:00 p.m. and 8:00 a.m. on weekends that is audible to a person with average hearing faculties or capacity at a distance of 150 feet from the construction site if the construction site is within 1,000 feet of an occupied residential dwelling except for emergency work or when the resource management director or his designated representative provides an exemption for a limited time.

Tulare County General Plan

The Tulare County General Plan has a number of policies that apply to projects in Tulare County. General Plan policies related to noise that apply to the Project are shown below. Table C-4 shows the maximum acceptable ambient noise exposures for various land uses in Tulare County.

- **Policy HS-8.2 Noise Impacted Areas.** The County shall designate areas as noise-impacted if exposed to existing or projected noise levels that exceed 60 dB L_{dn} (or CNEL) at the exterior of buildings.

- **Policy HS-8.3 Noise Sensitive Land Uses.** The County shall not approve new noise sensitive uses unless effective mitigation measures are incorporated into the design of such projects to reduce noise levels to 60 dB L_{dn} (or CNEL) or less within outdoor activity areas and 45 dB L_{dn} (or CNEL) or less within interior living spaces.

- **Policy HS-8.6 Noise Level Criteria.** The County shall ensure noise level criteria applied to land uses other than residential or other noise-sensitive uses are consistent with the recommendations of the California Office of Noise Control.

- **Policy HS-8.11 Peak Noise Generators.** The County shall limit noise generating activities, such as construction, to hours of normal business operation (7 a.m. to 7 p.m.). No peak noise generating activities shall be allowed to occur outside of normal business hours without County approval.

- **Policy HS-8.18 Construction Noise**. The County shall seek to limit the potential noise impacts of construction activities by limiting construction activities to the hours of 7 a.m. to 7 p.m., Monday through Saturday when construction activities are located near sensitive receptors. No construction shall occur on Sundays or national holidays without a permit from the County to minimize noise impacts associated with development near sensitive receptors.

- **Policy HS-8.19 Construction Noise Control.** The County shall ensure that construction contractors implement best practices guidelines (i.e., berms, screens, etc.) as appropriate and feasible to reduce construction-related noise impacts on surrounding land uses.

Table C-4. Tulare County Maximum Acceptable Ambient Noise Exposure for Various Land Uses

Land Use	Suggested Maximum L_{dn}
Residential – low density	60
Residential – high density	65
Transient lodging	65
Schools, libraries, churches, hospitals	65
Playgrounds, parks	65
Commercial	70
Industrial	75

City of Porterville Municipal Code

Chapter 18 of the City of Porterville Municipal Code (Section 18-90.6.F) states that construction noise is exempt given that such activities do not take place before 6:00 a.m. or after 9:00 p.m. on any day except Saturday or Sunday, or before 7:00 a.m. or after 5:00 p.m. on Saturday or Sunday.

Transportation

Federal

Title 23, Code of Federal Regulations, Highways

The DOT sets policy regarding the placement of utility facilities within freeway rights-of-way. Federal statutes specify requirements for facilities that receive federal assistance, including interstate freeways and U.S. highways, most state routes, and certain local roads. Federal Highway Administration (FHWA) regulations require that each state develop its own policy regarding the accommodation of utility facilities within freeway rights-of-way. Once FHWA has approved a state's policy, the state can approve any proposed utility installation without referral to FHWA unless it does not conform to the federally approved policy. Federal law does not directly control how states accommodate utilities within freeway rights-of-way, but in determining whether a right-of-way on a federally aided freeway should be used for accommodating a utility facility, the Secretary of Transportation must (1) ascertain the effect accommodation of utilities would have on freeway and traffic safety, since no such use may be authorized or permitted that would adversely affect safety; (2) evaluate the direct and indirect environmental and economic effects of any loss of productive agricultural land or any impairment of its productivity that would result from disapproving accommodation of the utility facility; and (3) consider the environmental and economic effects together with any interference with or impairment of the use of the freeway that would result from accommodation of the utility facility (23 USC Section 109[l]). In addition, 23 USC Section 116 requires state transportation

agencies to ensure proper maintenance of freeway facilities, which implies adequate control over non-freeway facilities such as utility facilities. Finally, 23 USC Section 123 specifies when federal funds can be used to pay for the costs of relocating utility facilities in connection with freeway construction projects (McCarthy 2004).

Title 49, Code of Federal Regulations, Sections 171-177

Title 49 governs the transportation of hazardous materials, the types of materials defined as hazardous, and the marking of the transportation vehicles. The administering agencies for Title 49 in California are the CHP and the federal DOT, Pipeline and Hazardous Materials Safety Administration. The project would conform to Title 49 by requiring that vehicles used to transport any construction-related hazardous materials use the required markings.

State

State of California, Department of Transportation

Caltrans is one of several departments in California's Business, Transportation and Housing Agency. Caltrans' Right of Way and Asset Management Program, administered through Caltrans' district offices, is primarily responsible for acquisition and management of property required for state transportation purposes. Transportation purposes may include roads, mass transit and related facilities, airports, shops, maintenance stations, storage yards, material sites, and any other purpose that may be necessary for Caltrans operations (Caltrans 2008a). The responsibilities of the Right of Way and Asset Management Program include managing Caltrans' real property for transportation purposes, reducing the costs of operations, disposing of property no longer needed, and monitoring right-of-way activities on federally assisted local facilities.

As defined in Streets and Highways Code Section 660, an encroachment can be any tower, pole, pole line, pipe, pipeline, fence, billboard, stand, or building, or any structure or object of any kind or character that is within the right-of-way but not a part of the Caltrans facility. The authority for Caltrans to control encroachments within the state roadway is contained in the Streets and Highways Code beginning with Section 660.

Encroachments allow temporary or permanent use of roadway rights-of-way by a utility, a public entity, or a private party. Encroachments include all public and private utilities within state rights-of-way, such as communication, electric power, water, gas, oil, petroleum products, steam, sewer, drainage, irrigation, and similar facilities. Encroachments also include any temporary or permanent break in access or use of the roadway rights-of-way for grading, excavating, or filling or removing materials by public agencies, developers, or private individuals (Caltrans 2008b).

Encroachment permits are issued by Caltrans to other agencies or parties that perform construction activities within its rights-of-way. Typical projects performed by other agencies or parties that require encroachment permits include construction of roadway improvements and utility work. Under an encroachment permit, Caltrans requires the agency or party to implement an appropriate stormwater protection program. Caltrans retains ultimate responsibility for ensuring that the portion of the project within the Caltrans right-of-way is in compliance with federal, state, and local stormwater protection regulations.

Caltrans specifically has interest in projects that may structurally modify deck slabs (not including raised sidewalks or utility attachments), girders (not including utility attachments), bottom slabs of superstructures, columns and supporting foundations, and abutments and supporting foundations.

California Vehicle Code, Sections 13369, 15275, 15278

The California Vehicle Code addresses the licensing of drivers and the classification of license required for the operation of particular types of vehicles, requires a commercial driver's license to operate commercial vehicles, and requires an endorsement issued by the Department of Motor Vehicles to drive any commercial vehicle identified in Section 15278 of the California Vehicle Code. The administering agency for these statutes is the Department of Motor Vehicles. The project would comply with these Code Sections 13369, 15275, and 15278 by requiring that contractors and employees be properly licensed and endorsed when operating relevant vehicles.

California Vehicle Code, Section 35550

California Vehicle Code Section 35551 imposes weight guidelines and restrictions on vehicles traveling on freeways and highways. The section holds that "a single axle load shall not exceed 20,000 pounds. The load on any one wheel or wheels supporting one end of an axle is limited to 10,500 pounds. The front steering axle load is limited to 12,500 pounds." Furthermore, Section 35551 defines the maximum overall gross weight as 80,000 pounds and adds that "the gross weight of each set of tandem axles shall not exceed 34,000 pounds." The administering agency for this statute is Caltrans. The project would comply with this Code Section by requiring compliance with weight restrictions and by requiring heavy haulers to obtain required permits prior to delivery of any heavy haul load.

California Vehicle Code, Section 35780

California Vehicle Code Section 35780 requires a Single-Trip Transportation Permit to transport oversized or excessive loads over state highways. The permit can be acquired through Caltrans. The project would comply with this Section 35780 by requiring that heavy haulers obtain a Single-Trip Transportation Permit for oversized loads for each vehicle prior to delivery of any oversized load.

California Streets and Highways Code, Section 117

Unless otherwise specified, the acquisition of any right-of-way over any real property for state highway purposes includes the right of Caltrans to issue, under Chapter 3 (commencing with Section 660), permits for any structures or fixtures necessary to telegraph, telephone, or electric power lines or of any ditches, pipes, drains, sewers, or underground structures located in the public rights-of-way. The administering agency for this statute is Caltrans. Project proponents would coordinate with Caltrans with regard to use of public rights-of-way.

California Streets and Highways Code, Sections 660, 670, 672, 1450, 1460, 1470, 1480 et seq.

This code defines highways and encroachments and requires encroachment permits for projects involving excavation in state highways and county/city streets. This law is generally enforced at the local level. The administering agencies for this regulation are Caltrans and Kern and Tulare counties. Project proponents or the construction contractor would apply for encroachment permits for any excavation in state and county roadways prior to construction.

California Manual on Uniform Traffic Control Devices, Part 6

This regulation requires a temporary traffic control plan be provided for "continuity of function (movement of traffic, pedestrians, bicyclists, transit operations) and access to property/utilities" during any time the normal function of a roadway is suspended. The administering agencies for this regulation are Caltrans and Kern and Tulare counties. If applicable, a Traffic Control Plan would be prepared prior to the start of construction.

Regional and Local

Kern Council of Governments' Regional Transportation Plan

The Kern Council of Governments' Regional Transportation Plan (RTP) (2018) is a long-term (24-year) blueprint that establishes a set of transportation goals, policies, and actions for development of Kern County's transportation network. It encompasses all types of transportation projects, including air travel and goods movement. This plan is the current edition developed through a continuing, comprehensive, and cooperative planning process; it provides for effective coordination between local, regional, state, and federal agencies. The RTP was developed in coordination with the 11 cities in Kern County and staff from related local public agencies, the San Joaquin Valley Air Pollution Control District, Caltrans, and the public. This RTP process was accomplished within the framework of the Council of Kern County Governments, which is the Regional Transportation Planning Agency for the Kern County area. Updated editions of the RTP are required every 4 years and are refinements of the original and subsequent plans. Federal and state legislation mandates that long-range transportation planning be done every 4 years for a period of at least 20 years into the future.

Tulare County Association of Governments' Regional Transportation Plan

The Tulare County Association of Governments (TCAG) is made up of nine member agencies, which include Tulare County and the eight cities in Tulare County. TCAG prepared the RTP in 2018 for its metropolitan planning area. The RTP is a long-range plan that provides a blueprint to help achieve a coordinated regional transportation system by creating a vision and identifying regional transportation planning policies and projects to address the county's transportation needs. The long-range plan extends to the year 2042. The RTP includes programs and policies for congestion management, transit, bicycles and pedestrians, roadways, freight, and finances. TCAG must prepare an RTP for its metropolitan planning area every 4 years to ensure that the future transportation needs are adequately addressed.

The RTP's primary use is as a regional long-range plan for federally funded transportation projects. It also serves as a comprehensive, coordinated transportation plan for all the governmental jurisdictions within the region. Different jurisdictions have different transportation implementation responsibilities under the RTP.

Tribal Cultural Resources

Federal

Traditional Cultural Property

A Traditional Cultural Property is defined as a property eligible for inclusion in the National Register of Historic Places "because of its association with cultural practices or beliefs of a living community that (a) are noted in that community's history, and (b) are important in maintaining the continuity of the community (Parker and King 1998)."

Executive Order 13007

Pursuant to EO 13007, agencies "…shall, to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions…" accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and avoid adversely affecting the physical integrity of such sacred sites. EO 13007 defines a "sacred site" as:

> *…any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site.*

State

Tribal Cultural Resource

A Tribal Cultural Resource is defined in PRC subsection 21074 as the following:

(a) "Tribal cultural resources" are either of the following:

> (1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:
>
> > (A) Included or determined to be eligible for inclusion in the California Register of Historical Resources.
> >
> > (B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.
>
> (2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

(b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

(c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a "nonunique archaeological resource" as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

Examples of Traditional Cultural Properties and Tribal Cultural Resources include a location associated with the traditional beliefs of a Native American group about its origins, its cultural history, or the nature of the world; a location where Native American religious practitioners have historically gone, and are known or thought to go today, to perform ceremonial activities in accordance with traditional cultural rules of practice.

Local

Tulare County General Plan

The Tulare County General Plan includes ERM goals and policies. ERM-6.8 states that:

> *The County shall continue to solicit input from the local Native American communities in cases where development may result in disturbance to sites containing evidence of Native American activity and/or to sites of cultural importance.*

Kern County General Plan

The Kern County General Plan includes goals, plans, and implementation measures related to cultural resources. Implementation Measure M states that:

> *The County shall develop a list of Native American organizations and individuals who desire to be notified of proposed discretionary projects. This notification will be accomplished through the established procedures for discretionary projects and CEQA documents.*

Utilities, Service Systems, and Energy

Federal

Safe Drinking Water Act

The Safe Drinking Water Act was established to protect the quality of drinking water in the United States. This law focuses on all waters actually or potentially designed for drinking use, whether from above ground or underground sources.

The state has expanded the federal requirements through passage of an Antidegradation Policy – State Water Board Resolution 68-16 (Statement of Policy with Respect to Maintaining High

Quality Waters in California). Resolution 68-16 has been approved by the EPA as consistent with the federal antidegradation policy.

Energy Policy and Conservation Act

The Energy Policy and Conservation Act of 1975 was established in response to the oil crisis of 1973, when oil prices increased due to a shortage of reserves. The act required that all vehicles sold in the U.S. meet certain fuel economy goals. Since 1990, the fuel economy standard for new passenger cars has been 27.5 miles per gallon. Since 1996, the fuel economy standard for new light trucks (gross vehicle weight of 8,500 pounds or less) has been 20.7 miles per gallon. Heavy-duty vehicles (i.e., vehicles and trucks over 8,500 pounds gross vehicle weight) are not subject to fuel economy standards (The National Academies Press 2000).

Energy Policy Act of 2005

The Energy Policy Act of 2005 seeks to reduce reliance on non-renewable energy resources and provide incentives to reduce current demand on these resources. Under the Act, for example, consumers and businesses can obtain federal tax credits for fuel-efficient appliances and products, including buying hybrid vehicles, building energy-efficient buildings, and improving the energy efficiency of commercial buildings. Additionally, tax credits are available for the installation of qualified fuel cells, stationary microturbine power plants, and solar power equipment.

State

California Constitution, Article X

Article X (10), Section 2, of the California Constitution recognizes the need to put the state's water resources to maximum beneficial use:

> *It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare.*

Utilities: Protection of Underground Infrastructure

California Government Code Sections 4216–4216.9, Protection of Underground Infrastructure, requires an excavator to contact a regional notification center (e.g., Underground Services Alert or Dig Alert) at least 2 days prior to excavation of any subsurface installations. Anyone seeking to begin a project that could damage underground infrastructure can call Underground Service Alert, the regional notification center for Northern California.

California Green Building Standards Code

The California Green Building Standards Code sets targets for energy efficiency, water consumption, dual plumbing systems for potable and recyclable water, diversion of construction waste from landfills, and use of environmentally sensitive materials in construction and design, including eco-friendly flooring, carpeting, paint, coatings, thermal insulation, and acoustical wall and ceiling panels. The code identifies non-residential mandatory measures regarding site

selection, building design, and building siting and development to protect, restore, and enhance the environmental quality of the site and respect the integrity of adjacent properties.

Local

Kern County General Plan

The following policies from the Kern County General Plan (Kern County 2009) are relevant to the Project:

1.10.6 Surface Water and Groundwater:

- **Policy 35.** Ensure that adequate water storage, treatment, and transmission facilities are constructed concurrently with planned growth.
- **Policy 37.** Ensure maintenance and repair of existing water systems.
- **Policy 39.** Encourage the development of the County's groundwater supply to sustain and ensure water quality and quantity for existing users, planned growth, and maintenance of the natural environment.
- **Policy 40.** Encourage utilization of community water systems rather than the reliance on individual wells.
- **Policy 43.** Drainage shall conform to the Kern County Development Standards and the Grading Ordinance.

Tulare County General Plan

There are no goals or policies in the Tulare County General Plan (Tulare County 2012) that are relevant to utilities, service systems, or energy.