BUREAU OF RECLAMATION

Santa Clara Valley Water District's Pacheco/Santa Clara Conduit Right-of-Way Acquisition Project

CGB-FONSI-2022-036
Finding of No Significant Impact

U.S. Department of the Interior

October 2022

Mission Statements

The U.S. Department of the Interior protects and manages the Nation's natural resources and cultural heritage; provides scientific and other information about those resources; and honors its trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated Island Communities.

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

BUREAU OF RECLAMATION
South-Central California Area Office, Fresno, California

CGB-FONSI-2022-036

Santa Clara Valley Water District's Pacheco/Santa Clara Conduit Right-of-Way Acquisition Project

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Area Manager

Introduction

In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) prepared this Finding of No Significant Impact (FONSI) which is supported by Reclamation's attached Environmental Assessment (EA) CGB-EA-2022-036, *Santa Clara Valley Water District's Pacheco/Santa Clara Conduit Right-of-Way Acquisition Project*, hereby incorporated by reference.

Background

The San Felipe Division of the Central Valley Project (CVP), built in the 1980's by Reclamation, provides supplemental water to 63,500 acres of land and 132,400 acre-feet of water annually for municipal and industrial purposes within the Santa Clara-San Benito service areas. CVP water from San Luis Reservoir is transported to these service areas through Pacheco Tunnel, the Pacheco and Santa Clara Conduits, and other appurtenances.

Santa Clara Valley Water District (Valley Water) operates and maintains the Pacheco Conduit and Santa Clara Conduit pursuant to an operating agreement (Contract No. 7-07-20-W0023A) with Reclamation.

Valley Water originally obtained vehicle and worker access to private lands located adjacent to the Pacheco and Santa Clara Conduits through verbal agreements with landowners. Since then, Valley Water has determined that formal access agreements are needed to conduct maintenance of the conduits more efficiently.

Valley Water maintenance crews need to access pipeline vaults (enclosed access points where maintenance workers can reach devices attached to the pipelines) two or three times each year for maintenance. These vaults contain air release valves (devices that release entrapped air in the pipeline), blow-off valves (devices that allow portions of the pipeline to be drained for maintenance), or other appurtenances. In addition to access difficulties related to lack of easements, there are physical impediments to maintenance staff accessing pipeline vaults at several locations along the Pacheco and Santa Clara Conduits. For example, wet weather creates difficulty and sometimes inability to access sites, fences without nearby gates block convenient routes requiring a roundabout way to access vaults, and other existing site conditions create physical hazards for maintenance staff. The purpose of the project is for Valley Water to acquire formal access agreements with landowners and implement cost-effective physical improvements to vaults, and above-ground maintenance sites along the Pacheco and Santa Clara Conduits.

Alternatives Considered

No Action Alternative

Under the No Action Alternative, Valley Water would not acquire easements along the Santa Clara Conduit or implement physical above-ground improvements along Pacheco and Santa Clara Conduits. Access would continue to be hampered and difficult for maintenance activities.

Proposed Action

Under the Proposed Action, Valley Water would acquire easements from private landowners to improve access to 10 Santa Clara Conduit vaults as well as implement physical improvements to vaults and above-ground maintenance sites along the Pacheco and Santa Clara Conduits. Physical improvements would include (1) construction of new paths, (2) construction of gravel collars, (3) construction of new driveways, (4) sign installation, and (5) installation of new gates. In addition, Valley Water would adopt new unimproved travel routes. Specific details of the activities are included in Section 2.2 of the Final EA.

Comments on the EA

Reclamation provided the public with an opportunity to comment on the Draft EA between August 12, 2022 and September 12, 2022. No comments were received.

Findings

Project activities located within Santa Clara County are covered under the Santa Clara Valley Habitat Plan. Reclamation consulted with the U.S. Fish and Wildlife Service (FWS) on the proposed activities located within San Benito County. On September 9, 2022, Reclamation received a biological opinion/concurrence letter from the FWS Ventura Office. On September 15, 2022, the FWS Sacramento Office acknowledged that the biological opinion/concurrence letter also covered the impacts in Santa Clara County. The biological opinion is included as Appendix B in the Final EA.

Reclamation consulted with the State Historic Preservation Office (SHPO) on the determination of no historic properties affected for the proposed undertaking. SHPO responded by letter dated February 17, 2022, expressing no objection to Reclamation's determination.

In accordance with NEPA, Reclamation considered potential short-term and long-term effects of the Proposed Action, both beneficial and adverse. Following are the reasons why the impacts of the

Proposed Action are not significant, with respect to the affected environment and degree of effects of the action (40 CFR 1501.3(b)).

1. The Proposed Action will not significantly affect public health or safety (40 CFR 1501.3(b)(2)(iii)).
2. The Proposed Action will not violate federal, state, tribal, or local law protecting the environment (40 CFR 1501.3(b)(2)(iv)).
3. The Proposed Action will not affect any Indian Trust Assets (512 DM 2, Policy Memorandum – July 2, 1993).
4. Implementing the Proposed Action will not disproportionately affect minorities or low-income populations and communities (EO 12898 – February 11, 1994).
5. The Proposed Action will not limit access to, and ceremonial use of, Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007 – May 24, 1996 and 512 DM 3 – June 5, 1998).

BUREAU OF RECLAMATION

Santa Clara Valley Water District's Pacheco/Santa Clara Conduit Right-of-Way Acquisition Project

CGB-EA-2022-036
Final Environmental Assessment

U.S. Department of the Interior October 2022

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1 Introduction

The Bureau of Reclamation (Reclamation) provided the public with an opportunity to comment on the Draft Environmental Assessment (EA) between August 12, 2022 and September 12, 2022. No comments were received. Changes between this Final EA and the Draft EA, which are not minor editorial changes, are indicated by vertical lines in the left margin of this document.

1.1 Background

The San Felipe Division of the Central Valley Project (CVP), built in the 1980's by Reclamation, provides supplemental water to 63,500 acres of land and 132,400 acre-feet of water annually for municipal and industrial purposes within the Santa Clara-San Benito service areas. CVP water from San Luis Reservoir is transported to these service areas through Pacheco Tunnel, the Pacheco and Santa Clara Conduits, and other appurtenances.

Santa Clara Valley Water District (Valley Water) operates and maintains the Pacheco Conduit and Santa Clara Conduit pursuant to an operating agreement (Contract No. 7-07-20-W0023A) with Reclamation.

1.2 Purpose and Need for the Proposed Action

Valley Water originally obtained vehicle and worker access to private lands located adjacent to the Pacheco and Santa Clara Conduits through verbal agreements with landowners. Since then, Valley Water has determined that formal access agreements are needed to conduct maintenance of the conduits more efficiently.

Valley Water maintenance crews need to access pipeline vaults (enclosed access points where maintenance workers can reach devices attached to the pipelines) two or three times each year for maintenance. These vaults contain air release valves (devices that release entrapped air in the pipeline), blow-off valves (devices that allow portions of the pipeline to be drained for maintenance), or other appurtenances. In addition to access difficulties related to lack of easements, there are physical impediments to maintenance staff accessing pipeline vaults at several locations along the Pacheco and Santa Clara Conduits. For example, wet weather creates difficulty and sometimes inability to access sites, fences without nearby gates block convenient routes requiring a roundabout way to access vaults, and other existing site conditions create physical hazards for maintenance staff.

The purpose of the project is for Valley Water to acquire formal access agreements with landowners and implement cost-effective physical improvements to vaults, and above-ground maintenance sites along the Pacheco and Santa Clara Conduits.

2 Alternatives Including Proposed Action

2.1 No Action Alternative

Under the No Action Alternative, Valley Water would not acquire easements along the Santa Clara Conduit or implement physical above-ground improvements along Pacheco and Santa Clara Conduits. Access would continue to be hampered and difficult for maintenance activities.

2.2 Proposed Action

Under the Proposed Action, Valley Water would acquire easements from private landowners to improve access to 10 Santa Clara Conduit vaults as well as implement physical improvements to vaults and above-ground maintenance sites along the Pacheco and Santa Clara Conduits. Physical improvements would include (1) construction of new paths, (2) construction of gravel collars, (3) construction of new driveways, (4) sign installation, and (5) installation of new gates. In addition, Valley Water would adopt new unimproved travel routes. Specific project activities are described in more detail below. Locations of the vaults are identified in Figure 1.

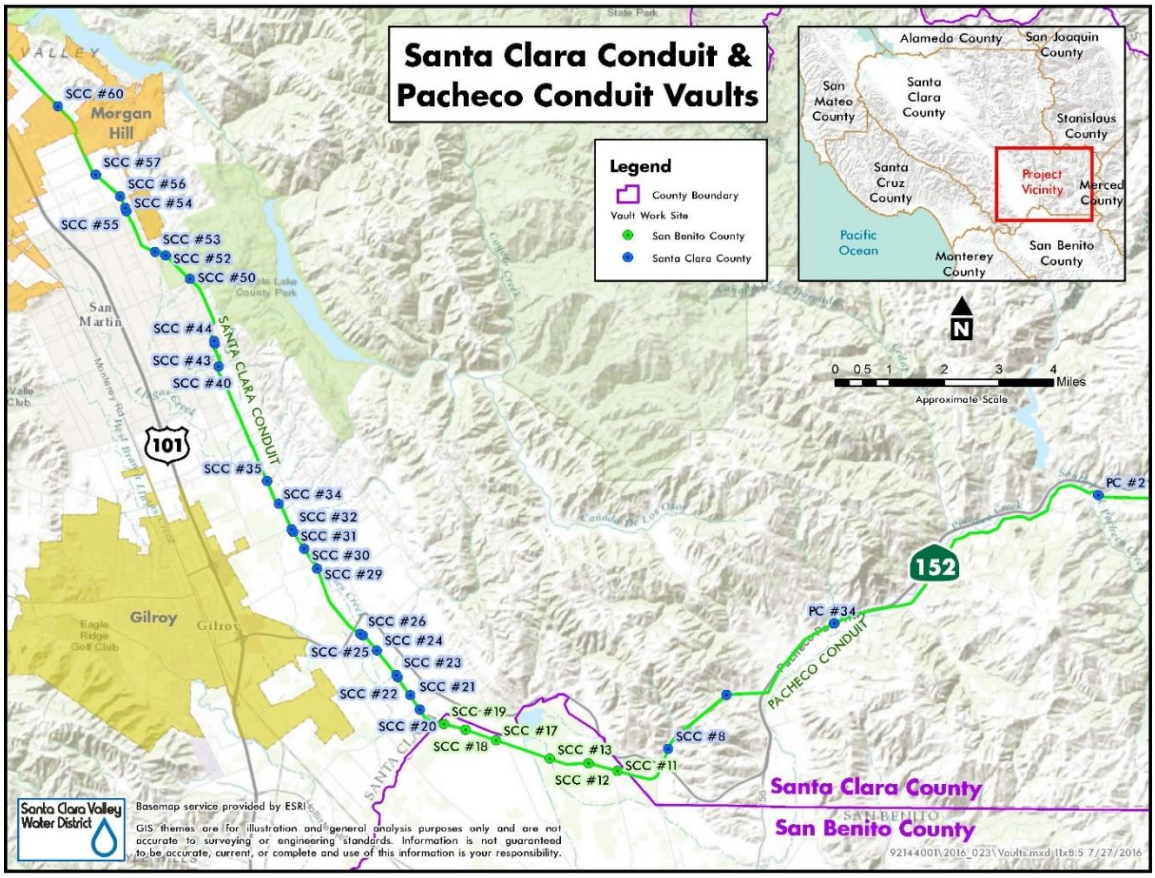

Figure 1. Action area.

2.2.1 Easement Acquisition

Valley Water is proposing to obtain easements from private landowners for access to the following Santa Clara Conduit (SCC) vaults:

- SCC 17/18/19 –Lake Road
- SCC 25 –SR 152
- SCC 29 –Dunlap Road
- SCC 40 –Foothill Avenue
- SCC 44 –Church Avenue
- SCC 54 –Center Avenue
- SCC 55 –Center Avenue
- SCC 56 –Maple Avenue
- SCC 57 –Tenant Avenue
- SCC 60 –Hendry Drive

2.2.2 New Path

Valley Water would grade and construct one new gravel path through an existing farm field to provide permanent all-weather access from an existing driveway off State Route 152 to Vault SCC 8. The path would be approximately 850 feet in length and 12 feet in width, plus an additional 12 feet in width for temporary construction purposes (graders, trucks, worker access during construction). Gravel would be placed down on the graded path for erosion control and stability. The path alignment would be designed to avoid or minimize environmental impacts to the extent possible. Heavy equipment would be used to perform the grading work and dump trucks would be used to haul excess soil from the site. Soils removed from the path construction site would be recycled on other Valley Water projects or disposed of at landfills for recycling or cover, as appropriate.

2.2.3 Gravel Collars

Valley Water would construct 20 new gravel collars at ground level around the top of each of the 20 vaults listed below. The collars would be created by clearing a square shaped area measuring a maximum of 32 feet by 32 feet around the respective vaults. Generally, collars would provide at least 16 feet of space in front of pipe appurtenances; however, collar dimensions would be reduced to a 4-foot curve around the back of any vaults that back onto a waterway or wetland (referred to as partial collars below). The footprint of the collars would range from approximately 0.002 acres to up to 0.02 acres for a full collar. A small volume of soil mixed with plant debris may be removed from each site during collar clearing activities. Soils removed from the sites would be recycled on other Valley Water projects or disposed of at landfills for recycling or cover, as appropriate. Any vegetation and shrubs that would be removed from the site during minor ground disturbance or clearing activities would be taken to a composting facility or chipped and used as mulch. Once cleared, gravel would be placed to create a solid pad for maintenance staff to safely perform needed work in the associated vault. The gravel collars would be installed at the following Pacheco Conduit (PC) and Santa Clara Conduit (SCC) vaults:

- PC 2 (partial collar)
- PC 34 (partial collar)
- SCC 11

- SCC 17
- SCC 18
- SCC 19 (partial collar)
- SCC 20
- SCC 21 (partial collar)
- SCC 22 (partial collar)
- SCC 23
- SCC 24
- SCC 25
- SCC 26
- SCC 30
- SCC 31
- SCC 35
- SCC 43
- SCC 52 (partial collar)
- SCC 56
- SCC 57 (partial collar)

2.2.4 New Driveways

Valley Water would construct five new driveways to provide access from public roads to vault locations. The driveways would be approximately 30 feet long perpendicular to the road and would taper to 15 feet wide within 10 feet from the roadway. Driveways would be paved with asphalt and meet County design standards. The driveways would be constructed at the following Santa Clara Conduit (SCC) vault locations:

- SCC 11 – Lovers Lane
- SCC 12 – Lovers Lane
- SCC 32 – Leavesley Road
- SCC 43 – Church Avenue
- SCC 54 – Center Avenue

2.2.5 Gates

Valley Water would install 16 new metal field gates at 12 locations to shorten drive routes, make routes more direct, use existing Reclamation right-of-way when possible, and avoid the need for acquiring new private easements at the following Santa Clara Conduit (SCC) vault locations:

- SCC 11
- SCC 12 (3 gates)
- SCC 13
- SCC 21
- SCC 22 (2 gates)
- SCC 24
- SCC 34

- SCC 40
- SCC 43
- SCC 50
- SCC 53
- SCC 54 (2 gates)

Unless specified otherwise above, there would be one new gate installed per vault for a total of 16 gates. It is possible that minimal fence relocations may be needed for installation of some of these gates. This could include shortening or slightly lengthening the existing fence to accommodate the new gate(s).

2.2.6 Sign Installation/Construction

Valley Water would install one new sign at SCC 12. The new sign would make the vault location more visible for maintenance crews to locate the vault in a more expeditious fashion. The signpost would be approximately 8-inches in diameter and installed in the ground and filled in with dirt or concrete.

2.2.7 New Travel Routes

Valley Water would adopt new unimproved travel routes for better access to the vaults as shown in Appendix A, at Pacheco Conduit vault locations of 15, 16, 17, 38 and Santa Clara Conduit vault locations of 8, 21, 22, 23, 24, 25, 26, 30, 31, 32, 34, 35, 40, 43, 54 and 60 all within the County of Santa Clara. The vault locations within San Benito County that would be associated with new unimproved travel routes would be Santa Clara Conduit vaults 11, 12 and 18. The total existing vaults with new unimproved routes (within Reclamation right-of-way) would be 23 for the County of Santa Clara and San Benito.

2.2.8 Construction Window

Construction is anticipated to occur over a two-year period with approximately 50 percent of the work completed each year during the summer. Valley Water estimates that it would take approximately 136 days in total to complete the construction (107 days in Santa Clara County and 29 days in San Benito County). Construction activities would occur on weekdays generally from 7:00 a.m. to 5:00 p.m. While unlikely, construction activities may occur occasionally after 5 pm during weekdays and on Saturdays but construction hours would be limited to those permissible under applicable county ordinances. No Sunday, holiday, or nighttime construction (after 7 pm) is planned.

Each site would typically have a maximum of four to eight workers per day during construction. Sites would be accessed via public roads and dedicated utility roads. Construction is expected to generate eight to 16 additional inbound and outbound truck trips per work site over the total 12-month work period (two 6-month construction periods in two years). Construction vehicles would be parked near the project sites or in designated areas at the respective individual work sites away from public travel routes.

2.2.9 Staging

Staging would be accommodated at each work site. Valley Water would use previously disturbed areas for staging, such as paved or gravel parking lots and roads, to the extent practicable. Construction supplies and equipment would be staged on dry ground out of waterways.

2.2.10 Operations after Project Completion

After construction is completed, Valley Water would implement modified standard practices for operational and maintenance activities. Under existing practice, Valley Water crews use standard fleet vehicles (e.g., full-size, heavy-duty trucks) to access vault sites for routine operation and maintenance activities. However, standard fleet vehicles have limited abilities to traverse undeveloped ground surfaces during wet conditions. The new practice would involve use of lighter four- to six-wheeled all-terrain vehicles (ATVs) when site conditions limit the use of standard service trucks; however, if practicable, Valley Water would avoid vehicular access and maintenance activities for 24 hours following rain events at locations where special status species may be present, unless the activities must be undertaken immediately to maintain the pipelines. The frequency of post-project operational/maintenance trips and associated route distances would remain similar to the current condition, i.e., approximately two to three times a year.

2.2.11 Environmental Commitments

Valley Water or its representatives shall implement best management practices (BMPs) and applicable avoidance and minimization measures from the Santa Clara Valley Habitat Plan (VHP). The VHP is a joint habitat conservation plan and Natural Communities Conservation Plan (NCCP) developed to serve as the basis for issuance of incidental take permits and authorizations pursuant to Section 10 of the federal Endangered Species Act, the California Endangered Species Act, and the California Natural Community Conservation Planning Act. The Santa Clara County portion of the proposed project is a covered activity identified in the VHP. Environmental consequences for resource areas assume the measures specified would be fully implemented.

2.2.11.1 Air Quality

The following Bay Area Air Quality Management District Dust Control Measures will be implemented:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Water used to wash the various exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, etc.) will not be allowed to enter waterways.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations), and this requirement shall be clearly communicated to construction workers (such as verbiage in contracts and clear signage at all access points).

- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications, and all equipment shall be checked by a certified visible emissions evaluator.
- Correct tire inflation shall be maintained in accordance with manufacturer's specifications on wheeled equipment and vehicles to prevent excessive rolling resistance.
- Post a publicly visible sign with a telephone number and contact person at the lead agency to address dust complaints; any complaints shall be responded to and take corrective action within 48 hours. In addition, a Bay Area Air Quality Management District telephone number with any applicable regulations will be included.

2.2.11.2 Biological Resources

The following BMPs will be implemented:

- Minimize potential impacts to salmonids by avoiding routine use of vehicles and equipment in salmonid streams between January 1 and June 15.
- Nesting bird surveys will be performed by a qualified biologist prior to any activity that could result in the abandonment, loss, damage, or destruction of birds, bird nests, or nesting migratory birds. Inactive bird nests may be removed with the exception of raptor nests. Birds, nests with eggs, or nests with hatchlings will be left undisturbed.

The following measures required by the VHP would be implemented for project activities in Santa Clara County:

- Minimize the potential impacts on covered species most likely to be affected by changes in hydrology and water quality.
- Reduce stream pollution by removing pollutants from surface runoff before the polluted surface runoff reaches local streams.
- Maintain the current hydrograph and, to the extent possible, restore the hydrograph to more closely resemble predevelopment conditions.
- Reduce the potential for scour at stormwater outlets to streams by controlling the rate of flow into the streams.
- Invasive plant species removed during maintenance will be handled and disposed of in such a manner as to prevent further spread of the invasive species.
- Activities in the active (i.e., flowing) channel will be avoided. If activities must be conducted in the active channel, avoidance and minimization measures identified in this table will be applied.
- Personnel shall prevent the accidental release of chemicals, fuels, lubricants, and non-storm drainage water into channels.
- Spill prevention kits shall always be in close proximity when using hazardous materials (e.g., crew trucks and other logical locations).
- Vehicles shall be washed only at approved areas. No washing of vehicles shall occur at job sites.
- No equipment servicing shall be done in the stream channel or immediate flood plain, unless equipment stationed in these locations cannot be readily relocated (i.e., pumps, generators).

- Personnel shall use the appropriate equipment for the job that minimizes disturbance to the stream bottom. Appropriately tired vehicles, either tracked or wheeled, shall be used depending on the situation.
- To the extent that stream bed design changes are not part of the Project, the stream bed will be returned to as close to pre-Project condition as appropriate.
- Any sediment removed from a Project site shall be stored and transported in a manner that minimizes water quality impacts.
- Use pervious materials, such as gravel or turf pavers, in place of asphalt or concrete to the extent practicable.
- Minimize alterations to existing contours and slopes, including grading the minimum area necessary.
- Existing access routes and levee roads shall be used if available to minimize impacts of new construction in special status species habitats and riparian zones.
- Minimize ground disturbance.
- Use existing roads for access and disturbed area for staging as site constraints allow. Off-road travel will avoid sensitive communities such as wetlands and known occurrences of covered plants.
- Prevent spills and clean up spilled materials.
- The potential for traffic impacts on terrestrial animal species will be minimized by adopting traffic speed limits.
- All trash will be removed from the site daily to avoid attracting potential predators to the site. Personnel will clean the work site before leaving each day by removing all litter and construction-related materials.

In addition to measures implemented for non-federally listed species, as described in the Initial Study (Valley Water 2021), the following measures for activities within San Benito County would be implemented for federally listed species:

- Between 14 and 30 days (or as otherwise required by project permits, but not more than 30 days) prior to the start of construction, a qualified biologist approved by the U.S. Fish and Wildlife Service (Service) and California Department of Fish and Wildlife (DFW) ("approved biologist") would conduct a pre-construction survey for San Joaquin kit foxes (*Vulpes macrotis mutica*) as specified in Service (2011), as well as for the California red-legged frog (*Rana draytonii*), California tiger salamander (*Ambystoma californiense*), and Least Bell's Vireo (*Vireo bellii pusillus*).
- If a nesting least Bell's vireo is present, the Service-approved biologist will determine an appropriate buffer distance between the nest and work activities, in coordination with the Service. The buffer will remain in place, and no project activities will occur within the buffer, as long as the nest is active.
- Within 15 days prior to any ground disturbance, a Service-approved biologist will conduct a preconstruction survey in areas identified as being suitable breeding or denning habitat for the San Joaquin kit fox. The survey area will include the proposed disturbance footprint and a 250-foot radius from the perimeter of the proposed footprint to identify San Joaquin kit foxes and/or potential dens (i.e., burrows greater than 4 inches in diameter). The Service-approved biologist will determine and map the status of all potential dens. Valley Water will submit written results of the preconstruction surveys to the Service within five calendar days

after survey completion, and before the start of ground disturbance. If San Joaquin kit foxes and/or potential dens are identified in the survey area, Valley Water will implement the following measures:

  - If a potential San Joaquin kit fox den is discovered in the survey area, the den will be monitored for three days by a Service-approved biologist using a baited camera trap to determine if the den is currently being used.
  - The Service-approved biologist will immediately destroy unoccupied dens to prevent subsequent use.
  - If an occupied San Joaquin kit fox den is found, Valley Water or the Service-approved biologist will immediately notify the Service. No activities that could result in damage to or destruction of the den, or disturbance of the kit fox(es), will occur. If active or suitable dens are identified within the proposed disturbance footprint or outside the proposed project footprint, but within a 250-foot buffer, the Service-approved biologist will demarcate an exclusion zones around each den entrance, or cluster of entrances. The configuration of exclusion zones will be circular with a radius measured outward from the den entrance(s). No covered activities will occur within the exclusion zones. Exclusion zone radii for atypical dens and suitable dens will be at least 50 feet and the Service-approved biologist will demarcate this exclusion zone with four to five flagged stakes. Exclusion zone radii for known dens will be at least 100 feet and the Service-approved biologist will demarcate this exclusion zone with staking and flagging that encircles each den, or cluster of dens, but does not prevent access to the den by the foxes.
  - Valley Water will coordinate with the Service regarding any additional measures that might need to be implemented to avoid take of the species.
  - If construction takes place while kit fox dens within 250 feet of work areas are occupied, a Service-approved biologist will be present to ensure compliance with the avoidance and minimization measures listed above. The Service will approve the frequency of monitoring based on the frequency and intensity of construction activities, and the likelihood of disturbance to the active dens. In most cases, monitoring will occur at least weekly, but in some cases daily monitoring may be appropriate to ensure that disturbance of San Joaquin kit fox is minimized.
  - If a San Joaquin kit fox is found in the project area during construction activities, the Service-approved biologist will halt construction, and allow the animal to disperse on its own.

- If a California red-legged frog or California tiger salamander is present in an area where it could be killed or injured by project activities, the approved biologist will capture and relocate the animal to nearby suitable habitat out of harm's way. The approved biologist will identify relocation sites prior to the start of the project.
- Equipment will utilize existing levee surface for excavation and placement work and avoid disturbance of areas designated as wetlands except where access to project areas can only occur through wetlands, such as at vaults SCC 12 and SCC 13.
- Work should be postponed if chance of rain is greater than 70% based on the NOAA National Weather Service forecast or within 48 hours following a rain event greater than 0.1 inch. If work must occur during these conditions, an approved biologist will conduct a clearance sweep of work areas prior to the start of work.
- If an unpredicted rainfall event commences while construction activities are in progress, the applicant will suspend all work activities and equipment and personnel will be demobilized.

Equipment may be moved to a designated staging area until work is allowed to resume. The designated area will be a hard surface devoid of small mammal burrows.

- Valley Water will cover soil stockpile areas at night to prevent/discourage habitation by animals.
- Valley Water will cover excavation sidewalls to prevent runoff if rain occurs.
- Before any heavy equipment stored overnight is moved, the approved biologist will inspect the area underneath and around the equipment to ensure that no California red-legged frogs or California tiger salamanders are present and at risk of being crushed by moving equipment. If a California red-legged frog or California tiger salamander is present in an area where it could be killed or injured by project activities, an approved biologist will capture and relocate the animal to nearby suitable habitat out of harm's way.
- An approved biologist will be on-site or on-call during all activities that could result in the take of the San Joaquin kit fox, California tiger salamander, or California red-legged frog. The approved biologist will have oversight over implementation of all conservation measures and if any of the requirements associated with these measures are not being fulfilled he/she will have the authority to stop project activities through communication with the project manager. If the approved biologist(s) exercises this authority, he/she will notify the Service (using the contact person/information indicated by the Service's Biological Opinion) and DFW (via the State Dispatch at (916) 654-4262) by telephone and electronic mail within one working day.
- Prior to initiation of any on-site preparation/construction activities, the approved biologist will conduct an education and training session for all available individuals who would be involved in the site preparation or construction, including the project representative(s) responsible for reporting take to the Service and DFW. Valley Water will require training sessions for all new or additional personnel before they are allowed to access the project site. Valley Water will provide attendance sheets identifying attendees and the contractor/company they represent to the Service and DFW with the post-construction compliance report. At a minimum, the training will include a description of the California red-legged frog and California tiger salamander and their habitat requirements. Additional information will include the general measures, as they relate to the project, that are being implemented to conserve the species; the penalties for non-compliance with these measures; Valley Water will restrict travel within the marked project site to established roadbeds and the boundaries (work area) within which the project must be accomplished. To ensure that employees and contractors understand their roles and responsibilities, training may have to be conducted in languages other than English.
- Valley Water will flag the limits of the construction area, if not already marked by other fencing, and confine all activity within the marked area. Valley Water will clearly mark in the field all access to and from the project area. Prior to commencing construction activities, the contractor will determine construction vehicle parking sites and all access routes. Valley Water will confine all construction activity within the project site, which may include temporary access roads, haul roads, and staging areas specifically designated and marked for these purposes. At no time will Valley Water allow equipment or personnel to adversely affect habitat areas outside the project site without authorization from the Service and DFW.
- Valley Water will not undertake nighttime construction.
- Valley Water will minimize permanent and temporary disturbances to habitats of the California red-legged frog and California tiger salamander. To minimize temporary

disturbances, Valley Water will restrict all project-related vehicle traffic to established roads and other designated areas except where access to work locations necessitates activities away from roads. Valley Water will also include these areas in pre-construction surveys and, available, will establish these areas in locations disturbed by previous activities to prevent further adverse effects.

- Valley Water will require a 15-mile-an-hour speed limit on unpaved roads within listed species habitats.
- To prevent harassment, injury or mortality of special-status animals, or destruction of their burrows or dens, Valley Water will not permit pets of any kind on construction sites.
- The onsite biological monitor will check for animals under all vehicles and equipment such as stored pipes before the start of work each morning.
- To prevent inadvertent entrapment of San Joaquin kit foxes, California red-legged frogs, or California tiger salamanders during construction, Valley Water will cover all excavated, steep-walled holes or trenches more than two feet deep at the close of each working day with plywood or similar materials or provide one or more escape ramps (with no greater than a 3:1 slope) constructed of earth fill or wooden planks. Before such holes or trenches are filled, an approved biologist will thoroughly inspect them for trapped animals. If a San Joaquin kit fox, California red-legged frog, or California tiger salamander is trapped, then Valley Water will allow it to escape on its own, or the approved biologist will relocate it to nearby suitable habitat out of harm's way. In addition, the approved biologist will thoroughly inspect all construction pipe, culverts, or similar structures with a diameter of 3 inches or greater that are stored at the construction site for one or more overnight periods for listed animals before the pipe is subsequently moved, buried, or capped. If during inspection one of these animals is discovered inside a pipe Valley Water or the contractor will not move that section of pipe until the animal has escaped on its own or the approved biologist has relocated the animal to nearby suitable habitat out of harm's way. If at any time a trapped listed animal is discovered, the approved biologist will immediately place escape ramps or other appropriate structures to allow the animal to escape from the opening, or will contact the Service and DFW by telephone for guidance. Valley Water or approved biologist will notify the Service and DFW of the incident by telephone and electronic mail within one working day.
- Valley Water will maintain all equipment in accordance with the manufacturer's directions so there will be no leaks of fluids such as gasoline, oils, or solvents.
- To eliminate the attraction of predators into the action area, Valley Water will dispose of all food-related trash items such as wrappers, cans, bottles, and food scraps in closed containers; Valley Water will remove these containers at least once every day from the entire project site.
- Valley Water will submit a final report to Reclamation, the Service, and DFW, documenting compliance with the above measures.
- Valley Water or its representatives will implement best management practices (BMPs) from its Best Management Practices Handbook (Valley Water 2014) to avoid and minimize impacts to listed species and their habitats. For example, Valley Water or its representatives will implement the following standard Valley Water BMPs to minimize impacts to water quality:
    - In order to minimize soil from being tracked onto streets near work sites Valley Water will implement methods used to prevent mud from being tracked out of work

sites onto roadways include installing a layer of geotextile mat, followed by a 4-inch thick layer of 1 to 3-inch diameter gravel on unsurfaced access roads; and

- Valley Water will provide access as close to the work area as possible, using existing ramps, and plan work site access so as to minimize disturbance to the water body bed and banks, and the surrounding land uses.
- In order to isolate fresh concrete until it no longer poses a threat to water quality, Valley Water will exclude wet sacked concrete from the wetted channel for a period of four weeks after installation. During that time, Valley Water will keep the wet sacked concrete moist (such as covering with wet carpet) and will not allow runoff from the wet sacked concrete to enter a live stream;
- Valley Water will exclude poured concrete from the wetted channel for a period of four weeks after it is poured. During that time, Valley Water will keep the poured concrete moist, and will not allow runoff from the wet concrete to enter a live stream. Valley Water may apply commercial sealants (e.g., Deep Seal, Elasto-Deck Reservoir Grade) to the poured concrete surface where difficulty in excluding water flow for a long period may occur. If a sealant is used, Valley Water will exclude water from the site until the sealant is dry; and
- Valley Water will not use dry sacked concrete in any channel. Valley Water will designate an area outside of the channel and floodplain to clean out concrete transit vehicles.
- Valley Water will seed disturbed areas with native seed as soon as is appropriate after activities are complete. Valley Water will apply an erosion control seed mix to exposed soils down to the ordinary high-water mark in streams.
- The seed mix will consist of California native grasses, (for example *Hordeum brachyantherum*; *Elymus glaucus*; and annual *Festuca microstachys*) or annual, sterile hybrid seed mix (e.g., Regreen™, a wheat x wheatgrass hybrid).
- Valley Water may seed temporary earthen access roads when site and horticultural conditions are suitable or will have other appropriate erosion control measures in place.
- To prevent stormwater pollution, Valley Water will seed and stabilize soils exposed due to project activities using hydroseeding, straw placement, mulching, and/or erosion control fabric. Valley Water will implement these measures such that the site is stabilized, and water quality protected prior to significant rainfall. In creeks, the channel bed and areas below the Ordinary High-Water Mark are exempt from this BMP;
- Valley Water will use erosion control fabrics consisting of natural fibers; however, steeper slopes and areas that are highly erodible may require more structured erosion control methods. Valley Water will not use non-porous fabric as part of a permanent erosion control approach. Valley Water may use plastic sheeting to temporarily protect a slope from runoff, but only if there are no indications that special-status species would be impacted by the application;
- Valley Water will install erosion control measures according to manufacturer's specifications; and
- Valley Water will implement the appropriate measures from, but not limited to, silt fences, straw bale barriers, brush or rock filters, storm drain inlet protection, sediment traps or sediment basins, erosion control blankets and/or mats, soil stabilization (i.e., tackified straw with seed, jute or geotextile blankets, etc.), and straw mulch.

- Valley Water will remove all temporary construction-related erosion control methods at the completion of the project (e.g., silt fences).
- Valley Water will install surface barrier applications installed as a method of animal conflict management, such as chain link fencing, woven geotextiles, and other similar materials, no longer than 300 feet, with at least an equal amount of open area prior to another linear installation.

2.2.11.3 Hazardous Materials

Measures will be implemented to ensure that hazardous materials are properly handled, and the quality of water resources is protected by all reasonable means.

- Prior to entering the work site, all field personnel will know how to respond when toxic materials are discovered.
- Contact of chemicals with precipitation will be minimized by storing chemicals in watertight containers with appropriate secondary containment to prevent any spillage or leakage.
- Petroleum products, chemicals, cement, fuels, lubricants, and non-storm drainage water or water contaminated with the aforementioned materials will not contact soil and not be allowed to enter surface waters or the storm drainage system.
- All toxic materials, including waste disposal containers, will be covered when they are not in use, and located as far away as possible from a direct connection to the storm drainage system or surface water.
- Quantities of toxic materials, such as equipment fuels and lubricants, will be stored with secondary containment that is capable of containing 110% of the primary container(s).
- The discharge of any hazardous or non-hazardous waste as defined in Division 2, Subdivision 1, Chapter 2 of the California Code of Regulations will be conducted in accordance with applicable State and federal regulations.
- In the event of any hazardous material emergencies or spills, personnel will call the Chemical Emergencies/Spills Hotline at 1-800-510-5151.
- Prevent the accidental release of chemicals, fuels, lubricants, and non-storm drainage water following these measures:
    - Field personnel will be appropriately trained in spill prevention, hazardous material control, and clean-up of accidental spills;
    - Equipment and materials for cleanup of spills will be available on site, and spills and leaks will be cleaned up immediately and disposed of according to applicable regulatory requirements;
    - Field personnel will ensure that hazardous materials are properly handled and natural resources are protected by all reasonable means;
    - Spill prevention kits will always be in close proximity when using hazardous materials (e.g., at crew trucks and other logical locations), and all field personnel will be advised of these locations; and,
- The work site will be routinely inspected to verify that spill prevention and response measures are properly implemented and maintained.
- All earthmoving and portable equipment with internal combustion engines will be equipped with spark arrestors.
- During the high fire danger period (April 1–December 1), work crews will have appropriate fire suppression equipment available at the work site.

- An extinguisher shall be available at the Project site at all times when welding or other repair activities that can generate sparks (such as metal grinding) is occurring.
- Smoking shall be prohibited except in designated staging areas and at least 20 feet from any combustible chemicals or vegetation.
- Fences, barriers, lights, flagging, guards, and signs will be installed as determined appropriate by the public agency having jurisdiction, to give adequate warning to the public of the construction and of any dangerous condition to be encountered as a result thereof.

2.2.11.4 Hydrology and Water Quality

The following measures will be implemented to minimize soil from being tracked onto streets near work sites:

- Methods used to prevent mud from being tracked out of work sites onto roadways include installing a layer of geotextile mat, followed by a 4-inch-thick layer of 1- to 3-inch diameter gravel on unsurfaced access roads.
- Access will be provided as close to the work area as possible, using existing ramps where available and planning work site access so as to minimize disturbance to the water body bed and banks, and the surrounding land uses.
- Fresh concrete will be isolated until it no longer poses a threat to water quality using the following appropriate measures:
    - Wet sacked concrete will be excluded from the wetted channel for a period of four weeks after installation. During that time, the wet sacked concrete will be kept moist (such as covering with wet carpet) and runoff from the wet sacked concrete will not be allowed to enter a live stream.
    - Poured concrete will be excluded from the wetted channel for a period of four weeks after it is poured. During that time, the poured concrete will be kept moist, and runoff from the wet concrete will not be allowed to enter a live stream. Commercial sealants (e.g., Deep Seal, Elasto-Deck Reservoir Grade) may be applied to the poured concrete surface where difficulty in excluding water flow for a long period may occur. If a sealant is used, water will be excluded from the site until the sealant is dry.
    - Dry sacked concrete will not be used in any channel. An area outside of the channel and floodplain will be designated to clean out concrete transit vehicles.
- Disturbed areas shall be seeded with native seed as soon as is appropriate after activities are complete. An erosion control seed mix will be applied to exposed soils down to the ordinary high-water mark in streams.
- The seed mix should consist of California native grasses, (for example *Hordeum brachyantherum*; *Elymus glaucus*; and annual *Festuca microstachys*) or annual, sterile hybrid seed mix (e.g., Regreen™, a wheat x wheatgrass hybrid).
- Temporary earthen access roads may be seeded when site and horticultural conditions are suitable or have other appropriate erosion control measures in place.
- To prevent stormwater pollution, the applicable measures from the following list will be implemented:
    - Soils exposed due to Project activities will be seeded and stabilized using hydroseeding, straw placement, mulching, and/or erosion control fabric. These measures will be implemented such that the site is stabilized, and water quality

protected prior to significant rainfall. In creeks, the channel bed and areas below the Ordinary High-Water Mark are exempt from this BMP.

- The preference for erosion control fabrics will be to consist of natural fibers; however, steeper slopes and areas that are highly erodible may require more structured erosion control methods. No non-porous fabric will be used as part of a permanent erosion control approach. Plastic sheeting may be used to temporarily protect a slope from runoff, but only if there are no indications that special-status species would be impacted by the application.
- Erosion control measures will be installed according to manufacturer's specifications.
- To prevent stormwater pollution, the appropriate measures from, but not limited to, the following list will be implemented:
  - Silt Fences
  - Straw Bale Barriers
  - Brush or Rock Filters
  - Storm Drain Inlet Protection
  - Sediment Traps or Sediment Basins
  - Erosion Control Blankets and/or Mats
  - Soil Stabilization (i.e., tackified straw with seed, jute or geotextile blankets, etc.)
  - Straw mulch
- All temporary construction-related erosion control methods shall be removed at the completion of the Project (e.g., silt fences).
- Surface barrier applications installed as a method of animal conflict management, such as chain link fencing, woven geotextiles, and other similar materials, will be installed no longer than 300 feet, with at least an equal amount of open area prior to another linear installation.

3 Affected Environment and Environmental Consequences

Valley Water prepared an Initial Study (Valley Water 2021) pursuant to the California Environmental Quality Act to assess the potential impacts of their proposed Pacheco/Santa Clara Conduit Right of Way Acquisition Project (Project). Valley Water included BMPs and other applicable avoidance measures into the Project which have been included in Section 2.2.11 of this EA. The affected environment is the same as identified in Valley Water 2021 and is hereby incorporated by reference.

3.1 Resources Eliminated from Further Analysis

Reclamation analyzed the affected environment and determined that the Proposed Action did not have the potential to cause adverse effects to the following resources:

3.1.1 Aesthetics

Aside from temporary intrusion of construction equipment and materials, the existing visual character and quality of the Project sites and surroundings would be similar to current conditions. The addition of new gravel paths, gates, driveways, and gravel collars would be consistent with the surrounding environments and would not degrade the existing visual character or quality of the Project sites.

3.1.2 Environmental Justice

Executive Order 12898 requires each federal agency to identify and address disproportionately high and adverse human health or environmental effects, including social and economic effects of its program, policies, and activities on minority populations and low-income populations. The Proposed Action would not cause dislocation, changes in employment, or increase flood, drought, or disease nor would it disproportionately impact economically disadvantaged or minority populations.

3.1.3 Indian Sacred Sites

Executive Order 13007 (May 24, 1996) requires that federal agencies accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and avoids adversely affecting the physical integrity of such sacred sites. The Proposed Action would not limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or affect the physical integrity of such sacred sites. There would be no impacts to Indian sacred sites as a result of the Proposed Action.

3.1.4 Indian Trust Assets

Indian Trust Assets are legal interests in assets that are held in trust by the United States for federally recognized Indian tribes or individuals. There are no Indian reservations, rancherias or allotments in the Proposed Action area. The nearest Indian Trust Asset is a public domain allotment which is about 24 miles to the south of the Proposed Action area. The Proposed Action does not have a potential to affect Indian Trust Assets.

3.1.5 Land Use

There would be no changes to land uses or conflict with any land use plan, policy, or regulation.

3.2 Air Quality

3.2.1 Affected Environment

The Project activities within Santa Clara County fall within the San Francisco Bay Area Air Basin under the jurisdiction of the Bay Area Air Quality Management District. Project activities within San Benito County fall within the North Central Coast Air Basin under the jurisdiction of the Monterey Bay Air Resources District. Attainment statuses for both air basins are included in Table 1. The majority of the Action area falls within the San Francisco Bay Area Air Basin.

Table 1. Designations for State and National Air Quality Standards

Pollutant	San Francisco Bay Area Air Basin		North Central California Air Basin	
	State Standard	National Standard	State Standard	National Standard
Ozone	Nonattainment	Nonattainment	Nonattainment	Attainment
Carbon Monoxide	Attainment	Attainment	Unclassified	Attainment
Nitrogen Dioxide	Attainment	Attainment	Attainment	Attainment
Sulfur Dioxide	Attainment	Attainment	Attainment	Attainment
PM10	Nonattainment	Unclassified	Nonattainment	Attainment
PM2.5	Nonattainment	Nonattainment	Attainment	Attainment
Sulfates	Attainment	No set standard	No information available	No set standard
Lead	Attainment	Attainment	No information available	No information available
Hydrogen Sulfide	Unclassified	No set standard	No information available	No set standard
Vinyl Chloride	No information available	No set standard	No information available	No set standard
Visibility Reducing Particles	Unclassified	No set standard	No information available	No set standard

Source: Bay Area Air Quality Management District 2017, Monterey Bay Air Resources District 2017, 2020

3.2.2 Environmental Consequences

3.2.2.1 No Action

There would be no impacts under the No Action Alternative as there would be no change from current conditions.

3.2.2.2 Proposed Action

Construction activities would result in air pollutant emissions from construction equipment and minor earthmoving. The Proposed Action would require travel to and from the Project sites both on highways and residential streets as well as on recreational unpaved or off-road areas. Hauling activities would be limited to delivery of materials and removal or disposal of excess soil.

Site preparation, access road or path grading, and gravel application would generate the greatest amount of dust and particulate matter and would occur for short periods of time during the construction period. Construction vehicles associated with these activities would emit diesel exhaust particulate matter and criteria pollutants.

Valley Water used the California Emissions Estimator Model® (CalEEMod) to estimate the Proposed Action's average daily construction-related emissions. The model quantifies direct emissions from construction and operation activities (including vehicle use), as well as indirect emissions, (applicable to land use development projects), such as greenhouse gas emissions from energy use, solid waste disposal, vegetation planting and/or removal, and water use. A summary of estimated average daily and annual unmitigated construction emissions is included in Table 2 and 3, respectively.

Table 2. Estimated Average Daily Unmitigated Construction Emissions and Criteria Thresholds

Pollutant	Criteria Thresholds (pound/day)	Proposed Action emissions (pound/day)
Reactive organic gases (as an ozone precursor)	54	2.2168
Nitrogen oxides (as an ozone precursor)	54	19.4555
Particulate Matter (total)	54	1.1310
Particulate Matter (total)	82	0.9723

Source: Valley Water 2021

Table 3. Estimated Annual Unmitigated Construction Emissions and Criteria Thresholds

Pollutant	Criteria Thresholds (tons/year)	Proposed Action emissions (tons/year)
Reactive organic gases (as an ozone precursor)	10	0.0168
Nitrogen oxides (as an ozone precursor)	10	0.1661
Particulate Matter (total)	15	9.0800^{e-003}
Particulate Matter (total)	10	8.0200^{e-003}

Source: Valley Water 2021

As shown in Table 2 and 3, the estimated average daily or annual construction emissions are substantially less than the criteria thresholds established by the air districts. In addition, Valley Water will implement environmental commitments (Section 2.2.11.1) to further reduce air quality impacts. As such, air quality impacts would be temporary, minimized, and discountable. No long-term direct, indirect, or cumulative adverse impacts would occur.

3.3 Biological Resources

3.3.1 Affected Environment

The Project sites are surrounded by rolling hills with annual grassland and ranching, farming, and open space. A wetland delineation and special-status plant surveys were conducted by H. T. Harvey and Associates on behalf of Valley Water for portions of the Action area (H. T. Harvey and Associates 2021 and 2014, respectively). Focused surveys for the California tiger salamander were conducted at the Calaveras Fault Inlet/Outlet (CFI/CFO) site, located between Project work areas SCC 13 and 17, in 2012 (H. T. Harvey & Associates 2012). Special-status species surveys were also conducted by Valley Water staff in 2013, 2015, 2016, 2017, and 2019. Special-status wildlife surveys were conducted by H. T. Harvey & Associates on several occasions from 2014 to 2016, primarily around the CFI/CFO area, south of San Felipe Lake, in conjunction with repairs to the access road to that location. H. T. Harvey biologists conducted assessment of land cover types and potential for occurrence of special-status species in 2019 and 2021.

The wetland delineation, rare plant surveys, and habitat/land cover mapping identified 14 habitat/land cover types in or adjacent to the Action area (H. T. Harvey & Associates 2021 and 2014). These habitats/land cover types are coastal and valley freshwater marsh; seasonal wetland; ephemeral stream; intermittent stream (present near, but not within, Project impact areas); drainage ditch (considered urban-suburban for VHP land cover mapping purposes and present near, but not

within, Project impact areas); mixed riparian forest and woodland; Central California sycamore alluvial woodland (present near, but not within, Project impact areas); mulefat riparian scrub (considered willow riparian forest and scrub for VHP land cover mapping purposes, and present near, but not within, Project impact areas); ornamental woodland (present near, but not within, Project impact areas); California annual grassland; agricultural land (considered grain, row crop, hay and pasture, disked/short-term fallowed for VHP land cover mapping purposes); agriculture developed; rural-residential; and urban-suburban land. A summary of the habitat/land cover types by Project site locations is included in Table 4. See Valley Water (2021) for further details on habitat/land cover types in the Action area.

Table 4. Summary of Habitat/Land Cover Type by Site Locations in San Benito and Santa Clara County

Habitat Type in Action area	San Benito County Locations	Santa Clara County Locations
Coastal and Valley Freshwater Marsh	SCC 12 and 13	SCC 22
Seasonal Wetland	SCC 13	SCC 21, 52, and 57, PC 2 and 34
Ephemeral Stream	SCC 12	SCC 8 and 25
Intermittent Stream	None	Near SCC 57
Drainage Ditch (Urban-Suburban)	None	Near SCC 21, 22, 23, 24, 35, 53, and 54
Mulefat Riparian Scrub (Willow Riparian Forest and Scrub)	None	Near PC 2 and 34
Mixed Riparian Forest and Woodland	None	SCC 8 and 57
Central California Sycamore Alluvial Woodland	None	Near PC 34
Ornamental Woodland	None	Near SCC 57
California Annual Grassland	SCC 11 and 12	SCC 8, 34, 50, 52, 53, and 54, PC 2, 15, 16, 17, 34, and 38
Agricultural Land (Grain, Row Crop, Hay and Pasture, Disked/Short-Term Fallowed)	SCC 17, 18, and 19	SCC 20, 21, 22, 24, 25, 26, 29, 30, 31, 32, 34, 35, 44, 54, and 56
Agriculture Developed	SCC 12	SCC 57
Rural-Residential	None	SCC 43 and 60
Urban-Suburban Land	All locations (includes the vaults themselves)	All locations (includes the vaults themselves)

The majority of the Project sites are located within Santa Clara County and the plan area for the VHP. Project activities within the Santa Clara County portion of the Project are considered "covered activities" under the VHP (Valley Water 2021). These activities will be implemented consistent with the VHP's requirements.

3.3.1.1 Wetlands and Other Waters of the U.S./State

Wetlands and/or other waters of the U.S./State (e.g., streams) that are regulated under Clean Water Act Sections 404 and 401 were identified in or near Project work areas associated with 14 vaults (H. T. Harvey and Associates 2021). Of these, 11 vault locations (SCC 8, 21, 22, 23, 25, 43, 52, and 57, and PC 2, 34, and 38) are located within Santa Clara County and the Plan area for the VHP. The other three vault impact sites near wetlands or other waters (SCC 11, 12, and 13) are in San Benito County, outside of the VHP boundaries.

After wetlands or other waters of the U.S./State were identified in or near work areas associated with 14 vaults, Valley Water refined its proposed activities to avoid and minimize impacts (discussed in Section 3.3.2.2 below) in a number of these locations. Wetlands/other waters present within the proposed Action area in Santa Clara County consist of ephemeral streams within the activity areas for vaults SCC 8 and SCC 25, seasonal wetlands in the activity areas for vaults SCC 21 and SCC 52, and mixed riparian forest and woodland in the activity areas for vaults SCC 8 and SCC 57. Within portions of the proposed Action area in San Benito County, wetlands/other waters consist of ephemeral streams and coastal and valley freshwater marsh in the activity area for vault SCC 12, and seasonal wetland and coastal and valley freshwater marsh in the activity area for vault SCC 13.

Non-jurisdictional waters (maintained agricultural irrigation ditches) were observed near SCC 21, 22, 23, 24, 35, 53, and 54. These maintained irrigation ditches did not have ordinary high-water mark indicators and are artificial features that do not replace any natural stream channels or drainages. In addition, they are currently managed to keep vegetation from establishing in the channels. Therefore, these features were considered non-sensitive and non-jurisdictional.

3.3.1.2 Special-Status Species

Table 5 includes a list of Federally listed threatened and endangered species and critical habitat with the potential to occur within or near the Action area in Santa Clara and San Benito Counties; species included on lists from the Sacramento Office (for Santa Clara County) and the Ventura Office (for San Benito County) of the Service obtained on September 29, 2021 by accessing the Service's Information for Planning and Consultation database (https://ecos.fws.gov/ipac); and selected species protected under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA).

Table 5. Federally Protected Species and Critical Habitat

Species or Critical Habitat	Status[1]	Effects[2]	Potential to occur and summary basis for ESA determination
Amphibians			
California red-legged frog *Rana draytonii*	T, X	MAA	There are known occurrences of the species associated with ponds near several of the Project sites, and this species could occur in the Action area. The VHP maps a number of ponds and creeks in the vicinity of Project sites as potential breeding habitat, and given this species' dispersal capability, upland habitat within most of the Project area could serve as dispersal habitat for this species. Intensively cultivated agricultural fields provide very low-quality habitat but could possibly be used for dispersal.

Species or Critical Habitat	Status[1]	Effects[2]	Potential to occur and summary basis for ESA determination
California red-legged frog Critical Habitat	T, X	MAA	Santa Clara County Unit 2 (Wilson Peak) of designated critical habitat for the California red-legged frog overlaps the eastern part of the Action area, including proposed activities at PC 2, 15, 16, 17, 34, and 38. Implementation of the new access routes to PC 15, 16, 17, and 38, and installation/construction of gravel collars around vaults PC 2 and 34, would result in permanent impacts to 1.15 acres and temporary impacts to 0.61 acres of potential California red-legged frog habitat within designated critical habitat.
California tiger salamander *Ambystoma californiense*	T, X	MAA	There are known occurrences of the species associated with ponds near several of the Project sites, and this species could occur in the Action area. The VHP maps a number of ponds in the vicinity of Project sites as potential breeding habitat, and given this species' dispersal capability, undeveloped upland habitat within most of the Project area could serve as dispersal habitat, and possibly refugial habitat in non-agricultural areas, where small mammal burrows are present for this species. Intensively cultivated agricultural fields provide very low-quality habitat but could possibly be used for dispersal.
California tiger salamander Critical Habitat	T, X	MAA	The Action area includes a very small part of East Bay Unit 12 of designated critical habitat for the California tiger salamander. Only the northern end of the proposed access route to SCC 8 is within critical habitat. Construction of this access route would result in permanent impacts to 0.17 acres and temporary impacts to 0.17 acres of potential California tiger salamander habitat within designated critical habitat.
Santa Cruz long-toed salamander *Ambystoma macrodactylum croceum*	E	NE	Restricted to southern Santa Cruz and northern Monterey Counties; the Action area is outside the species' range.
Birds			
Bald eagle *Haliaeetus leucocephalus*	BGEPA	NT	Known to forage and nest around San Felipe Lake and Pacheco Creek, and could occur in the Action area as a forager, but unlikely to nest close enough to any Project sites for Project activities to disturb active nests.

Species or Critical Habitat	Status[1]	Effects[2]	Potential to occur and summary basis for ESA determination
Burrowing owl *Athene cunicularia*	MBTA	NT	Grasslands in the Action area provide potentially suitable roosting and foraging habitat, and this species may occur in the Action area as an occasional forager or non-breeding visitor. Not known or expected to be currently nesting in Project work areas. The VHP maps grasslands in the Project vicinity as either wintering-only habitat (in areas along Highway 152 east of the Santa Clara Valley floor) or potential breeding and likely wintering habitat (on the Santa Clara Valley Floor) for this species. There is a low probability that this species roosts in burrows within the immediate Project work area owing to its low densities relative to the extent of regionally available habitat.
California brown pelican *Pelecanus occidentalis californicus*	E	NE	Restricted to coastal areas and the Salton Sea; Action area is outside the species' range.
California Ridgway's rail *Rallus obsoletus obsoletus*	E	NE	Restricted to tidal marshes of the San Francisco Bay; the Action area is outside the species' range.
California condor *Gymnogyps californianus*	E	NE	Nests in caves in steep, isolated cliffs or cavities in mature redwood trees. Forages over grasslands and open woodlands, especially in hilly or montane areas, and along coastal beaches. Although this species may occasionally fly high over the Action area, it is not known to occur on the ground in the Action area and is not expected to be impacted by the Project.
California least tern *Sternula antillarum browni*	E	NE	Breeds in coastal areas and on salt pannes in the San Francisco Bay; the Action area is outside the range of the species, and suitable nesting habitat is absent.
Golden eagle *Aquila chrysaetos*	BGEPA	NT	Known to forage in grasslands in much of the Action area, but suitable nesting habitat is absent.
Least Bell's vireo *Vireo bellii pusillus*	E, X	NLAA	The only breeding records in Santa Clara County are from Llagas Creek southeast of Gilroy in 1997 and the Pajaro River south of Gilroy in 1932 (Rottenborn 2007); there are no recent records from San Benito County. The VHP maps potential habitat as occurring along Pacheco Creek and along other creeks draining to the Pajaro River. However, due to this species' rare and sporadic occurrence in

Species or Critical Habitat	Status[1]	Effects[2]	Potential to occur and summary basis for ESA determination
			the Project vicinity, there is a very low probability of its occurrence in the Action area. No high-quality nesting habitat is present in the Project footprint or will be impacted by the Project.
Loggerhead shrike *Lanius ludovicianus*	MBTA	NT	Known to breed and forage in grasslands in portions of the Action area, in low numbers.
Marbled murrelet *Brachyramphus marmoratus*	T, X	NE	Nests in old-growth forests along the coast and forages in nearshore coastal waters; the Project is outside the species' range and suitable nesting and foraging habitat is absent.
Northern harrier *Circus hudsonius*	MBTA	NT	Known to forage in grasslands and wetlands in portions of the Action area. Suitable breeding habitat is present along existing work areas between SCC 12 and SCC 13 (where no new/changed activities are proposed), but suitable breeding habitat is absent from other work areas and immediately adjacent areas.
Peregrine falcon *Falco peregrinus*	MBTA	NT	Known to forage near much of the Action area, and likely to occur in the Action area as a forager, but suitable nesting habitat is absent.
Swainson's hawk *Buteo swainsoni*	MBTA	NT	This species is a scarce breeder in Santa Clara and San Benito Counties, but one of two nests known in Santa Clara County is present 375 feet from the new/proposed access route to SCC 8. Elsewhere, the species may occur as a scarce migrant and possible forager in grassland, wetland, or agricultural habitats.
Tricolored blackbird *Agelaius tricolor*	MBTA	NT	Known to forage in grasslands and agricultural areas in much of the Action area. Not known to nest in Project work areas, but suitable nesting habitat is present in emergent wetlands in and near the Project site, especially near SCC 12 and 13. The VHP maps wetlands, ponds, and riparian habitats in the Project vicinity as potential breeding habitat for this species.
Western snowy plover *Charadrius nivosus nivosus*	T	NE	Breeds primarily in coastal areas; suitable nesting and foraging habitat is absent from the Action area.
Southwestern willow flycatcher *Empidonax traillii extimus*	E, X	NE	Historically common in lower elevation riparian areas in the southern third of

Species or Critical Habitat	Status[1]	Effects[2]	Potential to occur and summary basis for ESA determination
			California. The Action area is outside the subspecies' current and historical range.
White-tailed kite *Elanus leucurus*	MBTA	NT	Known to breed near and forage in grasslands in much of the Action area.
Yellow warbler *Setophaga petechial*	MBTA	NT	Likely present as a scarce breeder in riparian habitat along Pacheco Creek and willow thickets, possibly near PC 2 and SCC 12 and 13; occurs in other portions of the Action area only as a migrant.
Fish			
Central California Coast Coho Salmon *Oncorhynchus kisutch*	E, X	NE	Aptos Creek is the southernmost extent of the range of this evolutionarily significant unit (ESU); the Action area is outside the ESU's range.
South-Central California Coast steelhead *Oncorhynchus mykiss*	T, X	NE	Known to occur in the Project vicinity along Pacheco Creek, Millers Canal, and the Pajaro River. However, no work areas are immediately adjacent to, or require impacts (e.g., for access) to, any of these waterbodies that support steelhead.
South-Central California Coast steelhead Critical Habitat	T, X	NE	South-Central California Coast steelhead Critical Habitat occurs near the Action area. However, no Project sites are located immediately adjacent to, or require impacts (e.g., for access) to, any of these waterbodies.
Central Valley spring-run chinook salmon *Oncorhynchus tshawytscha*	T	NE	Confined to Central Valley drainages; the Action area is outside the ESU's range.
Central Valley steelhead *Oncorhynchus mykiss*	T	NE	Confined to Central Valley drainages; the Action area is outside the ESU's range.
Delta smelt *Hypomesus transpacificus*	T	NE	Restricted to the upper reaches of the San Francisco Bay and Sacramento-San Joaquin Delta estuary; the Action area is outside the species' range.
North American green sturgeon *Acipenser medirostris*	T	NE	Spawns in the Sacramento River drainage and northward; the Action area is outside the species' range.
Sacramento River winter-run chinook salmon *Oncorhynchus tshawytscha*	E	NE	Confined to the Sacramento River; the Action area is outside the ESU's range.
Tidewater goby *Eucyclogobius newberryi*	E	NE	Occurs in tidal lagoon habitat along the coast; the Action area is outside this species' range.
Invertebrates			
Bay checkerspot butterfly *Euphydryas editha bayensis*	T, X	NE	Restricted to native grasslands with serpentine outcrops. Suitable habitat is absent from the Action area.

Species or Critical Habitat	Status[1]	Effects[2]	Potential to occur and summary basis for ESA determination
Monarch butterfly *Danaus plexippus*	C	NLAA	Occurs as an uncommon migrant through the Action area but is unlikely to breed in the Project footprint due to the paucity of larval host plants in the Project's impact areas.
Conservancy fairy shrimp *Branchinecta conservation*	E	NE	Endemic to the grasslands of the Central Valley; the Action area is outside the species' range.
Valley elderberry longhorn beetle *Desmocerus californicus dimorphus*	T	NE	Restricted to the Central Valley; the Action area is outside the species' range.
Vernal pool fairy shrimp *Branchinecta lynchi*	T, X	NE	Occurs primarily in the Central Valley, with scattered populations in coastal areas and the coast ranges. The only record from the Project vicinity was southeast of Hollister, more than 10 miles south of the Action area. The Action area is outside the species' current range.
Vernal pool tadpole shrimp *Lepidurus packardi*	E, X	NE	Patchily distributed across the Central Valley with isolated occurrences in Alameda and Contra Costa Counties; the Action area is outside the species' range.
Mammals			
Fresno kangaroo rat *Dipodomys nitratoides exilis*	E	NE	Not known to occur in either Santa Clara or San Benito Counties; the Action area is outside the species' range.
Giant kangaroo rat *Dipodomys ingens*	E	NE	The nearest records are from eastern San Benito County, more than 40 miles from the Action area; the Action area is outside the species' range.
Salt marsh harvest mouse *Reithrodontomys raviventris*	E	NE	Restricted to tidal marshes of the San Francisco Bay; the Action area is outside the species' range.
San Joaquin kit fox *Vulpes macrotis mutica*	E	NLAA	The VHP maps grasslands in the Project vicinity along Highway 152 in the Pacheco Creek/San Felipe Lake area as secondary habitat for this species. There is some potential for occasional dispersants from Central Valley populations to occur in this portion of the Action area, though the likelihood and frequency of occurrence is low.
Plants			
California seablite *Suaeda californica*	E	NE	Occurs in upper tidal salt marshes. No suitable habitat is present in the Action area.
Congdon's tarplant *Centromadia parryi* ssp. *congdonii*	E	NE	Occurs within grassland, often on alkaline soils. None of the Project sites have suitable habitat for this species, and the species was not detected during protocol-level rare plant surveys

Species or Critical Habitat	Status[1]	Effects[2]	Potential to occur and summary basis for ESA determination
Contra Costa goldfields *Lasthenia conjugens*	E, X	NE	Occurs in vernal pools, swales, moist flats and depressions within a grassland matrix; suitable habitat is absent from the Action area, and the species was not detected during protocol-level rare plant surveys.
Coyote ceanothus *Ceanothus ferrisae*	E	NE	Restricted to serpentine grassland; suitable habitat is absent from the Action area.
Fountain thistle *Cirsium fontinale* var. *fontinale*	E	NE	Restricted to moist serpentine seeps or streams; suitable habitat is absent from the Action area.
Marin dwarf-flax *Hesperolinon congestum*	T	NE	Occurs on serpentine soils in Marin, San Francisco, and San Mateo Counties; the Action area is outside the species' range.
Marsh sandwort *Arenaria paludicola*	E	NE	A coastal species that requires freshwater marshes and swamps, marsh sandwort is not currently or historically known in San Benito or Santa Clara Counties; the only two known remaining wild populations are both in San Luis Obispo County.
Metcalf Canyon jewelflower *Streptanthus albidus* ssp. *albidus*	E	NE	Limited to serpentine bunchgrass grasslands and rock outcrops; suitable habitat is absent from the Action area.
Robust spineflower *Chorizanthe robusta* var. *robusta*	E	NE	Limited to sandy soils along the coast and near-coastal areas in Santa Cruz and Marin Counties; the Action area is outside the species' range.
San Benito evening-primrose *Camissonia benitensis*	T	NE	Limited to serpentine-derived alluvial terraces and deposits near San Benito Mountain, southern San Benito County and western Fresno County. No suitable habitat within the Project sites.
San Joaquin woolly-threads *Monolopia congdonii*	E	NE	In the Project region, known only in eastern San Benito County; absent from the Action area.
San Mateo thornmint *Acanthomintha obovata* spp. *duttonii*	E	NE	Restricted to serpentine soils of chaparral and Valley and foothill grasslands in San Mateo County; the Action area is outside the species' range.
San Mateo woolly sunflower *Eriophyllum latilobum*	E	NE	Found in shaded moist sites on steep grassy or sparsely wooded slopes in San Mateo County; the Action area is outside the species' range.
Santa Clara Valley dudleya *Dudleya setchellii*	E	NE	Restricted to rocky outcrops in serpentine grasslands; suitable habitat is absent from the Action area.

Species or Critical Habitat	Status[1]	Effects[2]	Potential to occur and summary basis for ESA determination
Santa Cruz tarplant *Holocarpha macradenia*	T, X	NE	Occurs in coastal terrace prairie habitat in Contra Costa, Santa Cruz, and Monterey Counties. The Action area is outside the species' range.
Showy Indian clover *Trifolium amoenum*	E	NE	Historically, the species' range extended into Santa Clara County, but it is now extirpated throughout most of its range, and is not known in the Project region.
Tiburon paintbrush *Castilleja affinis* ssp. *neglecta*	E	NE	In the Project region, the species is known from only two locations in Santa Clara County. Limited to serpentine bunchgrass communities; suitable habitat is absent in the Action area.
Reptiles			
Alameda whipsnake *Masticophis lateralis euryxanthus*	T, X	NE	Associated with chaparral and coastal scrub communities interspersed with other vegetation types and rocky lands; the southernmost extent of its known range is in northern Santa Clara County. The Action area is outside the species' range.
Blunt-nosed leopard lizard *Gambelia sila*	E	NE	The nearest records are from eastern San Benito County, more than 40 miles from the Action area; the Action area is outside the species' range.
Giant garter snake *Thamnophis gigas*	T	NE	Endemic to wetlands of the Central Valley; the Action area is outside the species' range.
San Francisco garter snake *Thamnophis sirtalis tetrataenia*	E	NE	Endemic to the San Francisco peninsula; the Action area is outside the species' range.

1 Status = Status of Federally protected species protected under the ESA, MBTA, or BGEPA.
E: Listed as Endangered under ESA
T: Listed as Threatened under ESA
C: Candidate for listing under ESA
X: Critical Habitat designated for this species under the ESA
BGEPA: Species protected under the Bald & Golden Eagle Protection Act
MBTA: Species protected under the Migratory Bird Protection Act
2 Effects = ESA Effect determination
MAA: May Adversely Affect determination pursuant to the ESA
NE: No Effect determination pursuant to the ESA
NLAA: May affect, but is not likely to adversely affect determination pursuant to the ESA
NT: No Take determination pursuant to MBTA or BGEPA

3.3.2 Environmental Consequences

3.3.2.1 No Action

Under the No Action Alternative, the impacts to biological resources associated with the Proposed Action would not occur. Impacts unrelated to the Proposed Action would continue. For example, impacts associated with ongoing access to and maintenance of the Pacheco and Santa Clara

Conduits and associated infrastructure (e.g., vaults, access roads, and gates) would continue to occur. Those ongoing activities that are currently occurring are not part of the Proposed Action. Rather, those impacts would be covered by other Reclamation compliance mechanisms, such as the Biological Opinion for routine operations and maintenance activities. For the California tiger salamander, other, unrelated impacts include increased predation by feral animals and increased levels of hybridization with non-native tiger salamander species. Other impacts include pesticide use in surrounding agricultural lands, which may directly affect listed amphibians, and indirectly affect the San Joaquin kit fox through poisoning of prey.

3.3.2.2 Proposed Action

Impacts on Wetlands and Other Waters of the U.S./State

Wetlands and/or other waters of the U.S./State (e.g., streams) that are regulated under Clean Water Act Sections 404 and 401 were identified in or near Project work areas associated with 14 vaults (H. T. Harvey and Associates 2021). Subsequently, Valley Water refined its proposed impact areas to avoid impacts in a number of these locations. As a result, jurisdictional wetlands and other waters of the U.S./State will be impacted by activities associated with seven vaults. A summary of impacts to wetlands or other waters of the U.S./State within Santa Clara County is included in Table 6.

Table 6. Impacts to Waters of the U.S./State in Santa Clara County by Activity and Habitat/Land Cover

Project Site	Activity	Impacted Habitat/Land Cover	Impacts*
SCC 8	Installation/construction of an improved gravel path to the vault, stream crossing and Implementation of this new route	Ephemeral Stream	26 sf, 12 lf permanent, 26 sf, 12 lf temporary
		Mixed Riparian Forest and Woodland	213 sf permanent, 211 sf temporary
SCC 21	Implementation of new unimproved route	Seasonal Wetland	62 sf permanent
SCC 25	Implementation of a new unimproved route	Ephemeral Stream	71 sf, 12 lf permanent
SCC 52	Installation/construction of new gravel collar	Seasonal Wetland	733 sf permanent, 400 sf temporary
SCC 57	Installation/construction of new gravel collar	Mixed Riparian Forest and Woodland	452 sf permanent

* sf = square feet; lf = linear feet

In Santa Clara County, permanent and temporary impacts to wetlands and other waters of the U.S./State would total 0.025 and 0.015 acres, respectively, with an additional 0.010 acres of impact to mixed riparian forest and woodland that would not be considered waters of the U.S./State but that would be regulated by CDFW under the California Fish and Game Code.

A summary of impacts to jurisdictional wetlands and other waters of the U.S./State within Santa Benito County is included in Table 7.

Table 7. Impacts to Waters of the U.S./State in Santa Benito County by Activity and Habitat/Land Cover

Project Site	Activity	Impacted Habitat	Impacts*
SCC 12	Implementation of new unimproved route, installation /construction of new driveway, installation of three gates	Coastal and Valley Freshwater Marsh	16,455 sf permanent
		Ephemeral Stream	2,728 sf, 444 lf permanent
SCC 13	Access to install, and installation of, one gate	Coastal and Valley Freshwater Marsh	627 sf temporary
		Seasonal Wetland	4 sf permanent, 17,847 sf temporary

* sf = square feet; lf = linear feet

In Santa Benito County, permanent and temporary impacts to wetlands and other waters of the U.S./State would total 0.479 and 0.439 acres, respectively.

For Project activities in Santa Clara County, Valley Water will pay VHP impact fees, including fees for impacts to streams, wetlands, and riparian habitats. These fees will contribute to the VHP's conservation program, which will protect, restore, enhance, and manage those sensitive habitats, thereby compensating for Project impacts to those habitats within Santa Clara County. For Project activities occurring in San Benito County, Valley Water will provide compensatory mitigation for impacts to these jurisdictional habitats. Mitigation may be satisfied through Project-specific creation or restoration of jurisdictional habitats and/or the purchase of credits at a mitigation bank that has been approved by the appropriate permitting agencies.

If compensatory mitigation is provided through Project-specific conservation and management of suitable habitat, Valley Water will provide the mitigation at a 2:1 (mitigation: impact) ratio on an acreage basis for permanent impacts, and at a 1:1 ratio for temporary impacts. If compensatory mitigation is provided through the purchase of credits at an approved mitigation bank, mitigation will be provided at a 1:1 (mitigation: impact) ratio for both permanent and temporary impacts.

If Valley Water provides mitigation through Project-specific conservation and management of suitable habitat, Valley Water will prepare a Habitat Mitigation and Monitoring Plan (HMMP) describing the proposed mitigation approach (e.g., restoration or creation of appropriate habitats) and monitoring that will occur to ensure that the mitigation is successful. If the mitigation lands are suitable for multiple species and habitats, then Valley Water may rely on such lands to mitigate impacts to multiple species and habitats. The HMMP will be prepared by a qualified ecologist and will include the following:

- A summary of jurisdictional habitat impacts and proposed acres of habitat mitigation;
- The location of the mitigation site(s) and a description of existing site conditions;
- A description of the approach to restoring or creating appropriate jurisdictional habitats to compensate for those impacted;
- A monitoring plan (including performance criteria, methods, data analysis, reporting requirements, and schedule). At a minimum, performance/success criteria will include the presence of habitats that meet the requirements of jurisdictional Waters of the U.S./State.

Valley Water will also ensure adequate resources including funding to implement the mitigation, maintenance, and monitoring of the mitigation lands.

If compensatory mitigation is provided through a purchase of mitigation credits, Valley Water will purchase the credits from a mitigation bank in consultation with the appropriate resource agencies prior to commencement of Project construction.

Impacts on Special-Status Species

As summarized in Table 5, the majority of protected species do not have the potential to occur in or near the Action area and therefore would not be affected by the Proposed Action. However, the following species have the potential to occur in or near the Action area, and some could potentially be affected by the Proposed Action: Bald Eagle (*Haliaeetus leucocephalus*), Western Burrowing Owl, California red-legged frog and its critical habitat, California tiger salamander and its critical habitat, Golden Eagle (*Aquila chrysaetos*), Least Bell's Vireo, Loggerhead Shrike (*Lanius ludovicianus*), Northern Harrier (*Circus hudsonius*), Peregrine Falcon (*Falco peregrinus*), San Joaquin kit fox, South-Central California Coast steelhead (*Oncorhynchus mykiss*) and its critical habitat, Swainson's Hawk (*Buteo swainsoni*), Tricolored Blackbird (*Agelaius tricolor*), White-tailed Kite (*Elanus leucurus*), Yellow Warbler (*Setophaga petechia*), and monarch butterfly (*Danaus plexippus*). The California tiger salamander, California red-legged frog, San Joaquin kit fox, and Western Burrowing Owl are all considered "covered species" under the VHP. Potential Project effects on these species are discussed below.

Bird Species

Several bird species (i.e., Bald Eagle, Western Burrowing Owl, Golden Eagle, Loggerhead Shrike, Northern Harrier, Peregrine Falcon, Swainson's Hawk, Tricolored Blackbird, White-tailed Kite, and Yellow Warbler, in addition to many others protected by the MBTA) may use areas near the Project for foraging and/or nesting habitat. The Project would not destroy nesting habitat for any of these species, as few trees and shrubs will be impacted, wetlands to be impacted directly are not sufficiently tall/dense to support nesting Tricolored Blackbirds, and ground-nesting birds such as the Western Burrowing Owl and Northern Harrier are not expected to nest in the immediate impact areas due to the quality of habitat in those areas and these species' habitat associations and distributions. Although work conducted in close proximity to nests could potentially disturb birds to the point of nest abandonment, Valley Water would implement the avoidance measures listed in Section 2.2.13.2 so that Project activities would avoid injury or mortality of individuals, or disturbance of active nests.

The Project would result in permanent impacts to 6.57 acres of potential foraging habitat for protected birds (1.51 acres in San Benito County and 5.06 acres in Santa Clara County) and temporary disturbance of 3.05 acres (1.16 acres in San Benito County and 1.89 acres in Santa Clara County). All of the temporary impacts and most permanent impacts will be brief in duration and/or infrequent, as the majority of even the permanent impacts will result from occasional use of new access routes rather than habitat destruction. Although such occasional use of new access routes will degrade habitat conditions to some extent, birds will still be able to forage in these impact areas between uses. In addition, these acreages represent only a very small proportion of regionally available habitat for these species. As a result, the Project will not result in substantial impacts to habitat or populations of protected birds.

The Project will pay VHP impact fees for the permanent impacts to 5.06 acres and temporary impacts to 1.89 acres in Santa Clara County. These fees will contribute to the VHP's conservation

program, which will protect, restore, enhance, and manage habitat that will benefit all the bird species affected by the Project.

California Red-Legged Frog

No breeding habitat for the California red-legged frog is known or expected to be present within or very close to Project areas. The Project would result in permanent impacts to 6.57 acres of potential nonbreeding foraging or dispersal habitat for this species (1.51 acres in San Benito County and 5.06 acres in Santa Clara County), and temporary disturbance of 3.05 acres (1.16 acres in San Benito County and 1.89 acres in Santa Clara County). These impacts would result from the following activities:

- Implementation of new access routes at 23 sites will not result in the complete loss of habitat value for California red-legged frogs, as all new routes except the gravel path to SCC 8 will be unimproved. Occasional use of these new access routes will degrade habitat conditions somewhat, relative to existing conditions, and because these routes will be used repeatedly, impacts were considered permanent. However, California red-legged frogs will still be able to disperse through these access routes.
- Construction of a new gravel path to SCC 8 will replace existing grassland, herbaceous riparian (considered mixed riparian forest and woodland habitat for VHP compliance purposes), and ephemeral stream habitat with gravel, which is considered a permanent impact.
- Installation of new gravel collars at 20 sites will replace existing grassland and agricultural habitat with gravel, which is considered a permanent impact.
- Installation of new driveways at SCC 11, 12, 32, 43, and 54 will replace existing grassland and agricultural habitat with pavement, which is considered a permanent impact
- Access for construction of a new sign at SCC 12 and new gates at 16 sites is considered a temporary impact, as habitat conditions in the access areas can be restored to pre-Project conditions following these activities (though some of these temporary access areas are considered permanently impacted for other reasons, such as implementation of new access routes). Installation of the new sign and the gates will result in very limited permanent impacts to potential California red-legged frog habitat.

If California red-legged frogs were using burrows or crevices in upland habitat, or foraging in wetlands, within Project areas they could be killed during path, driveway, or collar construction; during use of new access routes; or during temporary access for sign or gate installation. Individuals adjacent to the impact footprints that are disturbed by construction activities could attempt overland movements to find alternative upland habitat; these individuals could be harassed, or injured and/or killed by pedestrians, vehicles, and predators during overland movements.

However, the vast majority of impact areas are of very low quality for this species. California annual grassland and agricultural (grain, row crop, hay and pasture, disked/short-term fallowed) lands, which comprise 90% of the Project's permanent impact areas, do not provide good cover for California red-legged frogs. Even higher-quality habitats such as coastal and valley freshwater marsh and seasonal wetlands are far enough from potential source populations in aquatic breeding habitats that the number of individual California red-legged frogs using those habitats would be low. For these reasons, the likelihood and magnitude of any potential impacts on individual red-legged frogs, or habitats important to populations of this species, are very low.

Although California red-legged frogs are not expected to breed in or very close to the Project area, Project-related ground disturbance has the potential to lead to sediment mobilization following rain events, potentially increasing turbidity in, and adversely affecting water quality in, nearby aquatic habitat that may be used by this species.

The Proposed Action may adversely affect the California red-legged frog. However, these effects would be minimized through implementation of numerous BMPs and avoidance and minimization measures as described in Section 2.2.13.2.

The Project will pay VHP impact fees for the permanent impacts to 5.06 acres and temporary impacts to 1.89 acres in Santa Clara County. These fees will contribute to the VHP's conservation program, which will protect, restore, enhance, and manage habitat for California red-legged frogs, among other covered species. Additionally, for the direct, permanent impacts to 1.51 acres and temporary impacts to 1.16 acres in San Benito County portions of the Project, Valley Water will provide compensatory mitigation for impacts to habitat of the California red-legged frog (as well as the California tiger salamander). Mitigation may be satisfied through Project-specific conservation and management of suitable habitat occupied by these species and/or the purchase of credits at a conservation bank that has been approved by the Service and CDFW.

If compensatory mitigation is provided through Project-specific conservation and management of suitable habitat, Valley Water will provide the mitigation at a 2:1 (mitigation: impact) ratio on an acreage basis for permanent impacts to suitable habitat, and at a 1:1 ratio for temporary impacts. If compensatory mitigation is provided through the purchase of credits at an approved conservation bank, mitigation will be provided at a 1:1 (mitigation: impact) ratio for both permanent and temporary impacts.

If Valley Water provides mitigation through Project-specific conservation and management of suitable habitat, Valley Water will prepare an HMMP describing the proposed mitigation lands for conservation/management, and monitoring that will occur to ensure that those lands continue to provide suitable habitat conditions. If the mitigation lands are suitable for multiple species and habitats, then Valley Water may rely on such lands to mitigate impacts to multiple species and habitats. The HMMP will be prepared by a qualified ecologist and will include the following:

- A summary of habitat impacts and proposed acres of habitat conservation;
- The location of habitat conservation and enhancement site(s), and description of existing site conditions;
- A monitoring plan (including performance criteria, methods, data analysis, reporting requirements, and schedule). At a minimum, performance/success criteria will include demonstration of the presence of suitable habitat for the California tiger salamander and California red-legged frog.

Valley Water will also ensure adequate resources including funding to implement the mitigation, maintenance, and monitoring of the mitigation lands.

If compensatory mitigation is provided through a purchase of mitigation credits, Valley Water will purchase the credits from a conservation bank in consultation with the appropriate resource agencies prior to commencement of Project construction.

California Red-legged Frog Critical Habitat
Santa Clara County Unit 2 (Wilson Peak) of designated critical habitat for the California red-legged frog overlaps the eastern part of the Action area, including proposed activities at PC 2, 15, 16, 17, 34, and 38. Implementation of the new access routes to PC 15, 16, 17, and 38, and installation/construction of gravel collars around vaults PC 2 and 34, would result in permanent impacts to 1.15 acres and temporary impacts to 0.61 acres of potential California red-legged frog habitat within designated critical habitat.

California Tiger Salamander

No breeding habitat for the California tiger salamander is known or expected to be present within or very close to Project areas. The Project would result in direct permanent impacts to 6.57 acres of potential nonbreeding dispersal and/or refugial habitat for this species (1.51 acres in San Benito County and 5.06 acres in Santa Clara County), and temporary disturbance of 3.05 acres (1.16 acres in San Benito County and 1.89 acres in Santa Clara County). If California tiger salamanders were using burrows or crevices in upland habitat within Project areas they could be killed during path, driveway, or collar construction; during use of new access routes; or during temporary access for sign or gate installation. These impacts would result from the same activities listed above for the California red-legged frog.

In addition, the Project could potentially have indirect effects on California tiger salamanders using burrows in areas near the Project footprint. Individuals adjacent to the impact footprints that are disturbed by construction activities could attempt overland movements to find alternative upland habitat; these individuals could be harassed, or injured and/or killed by pedestrians, vehicles, and predators during overland movements. In Santa Clara County, such potential indirect effects are represented for VHP compliance purposes by assessment of the direct effects (i.e., the footprint of Project impacts to non-developed land cover types) and payment of VHP impact fees accordingly, so no additional evaluation of potential indirect effects is necessary. However, potential indirect effects of Project activities on California tiger salamanders were quantified for the San Benito County portion of the Project for the purpose of environmental review and ESA consultation. Developed habitats (i.e., agriculture developed and urban-suburban) lack burrows and are otherwise unsuitable for California tiger salamanders, and wetland and aquatic habitats, such as ephemeral and intermittent streams, coastal and valley freshwater marsh, and seasonal wetlands typically lack burrows as well. In Project work areas in San Benito County, habitat/land cover types that potentially support burrows for California tiger salamanders include California annual grassland at SCC 11 and 12, and hay fields/pasture lands at SCC 17, 18, and 19. California annual grassland and hay fields/pasture lands within 50 feet of the impact areas at these five Project sites were considered to be indirectly impacted by the Project. These indirect impact areas totaled 9.06 acres of permanent impacts and 5.80 acres of temporary impacts, in addition to the direct (footprint) impacts listed above.

However, as noted above for the California red-legged frog, the vast majority of impact areas are of very low quality for California tiger salamanders. Although California annual grassland, rural-residential, and mixed riparian forest and woodland land cover types may provide burrows or other refugia for salamanders, agricultural (grain, row crop, hay and pasture, disked/short-term fallowed) lands, which comprise 63% of the Project's permanent impact areas, do not provide good cover for California tiger salamanders. Croplands typically lack burrows and other refugia. Nevertheless, small mammal burrows may be present in some agricultural lands, such as hay fields, pastures, and

fallowed lands. Even higher-quality upland habitats are far enough from potential source populations in aquatic breeding habitats that the number of individual California tiger salamanders using those habitats would be low. For these reasons, the likelihood and magnitude of any potential impacts on individual California tiger salamanders, or habitats important to populations of this species, are very low.

The Proposed Action may adversely affect the California tiger salamander. However, these effects would be minimized through implementation of numerous BMPs and avoidance and minimization measures as described in Section 2.2.13.2. In addition, as discussed above for the California red-legged frog, the Project will pay VHP impact fees for the permanent impacts to 5.06 acres and temporary impacts to 1.89 acres in Santa Clara County. These fees will contribute to the VHP's conservation program, which will protect, restore, enhance, and manage habitat for California tiger salamanders and other covered species. Additionally, for the direct, permanent impacts to 1.51 acres and temporary impacts to 1.16 acres in San Benito County portions of the Project, Valley Water will provide compensatory mitigation for direct impacts to habitat of the California tiger salamander as described above for the California red-legged frog. This mitigation may be satisfied through Project-specific conservation and management of suitable habitat occupied by the California tiger salamander and California red-legged frog and/or the purchase of credits at a conservation bank that has been approved by the Service and CDFW.

California Tiger Salamander Critical Habitat
The Action area includes a very small part of East Bay Unit 12 of designated critical habitat for the California tiger salamander. Only the northern end of the proposed access route to SCC 8 is within critical habitat. Construction of this access route would result in permanent impacts to 0.17 acres and temporary impacts to 0.17 acres of potential California tiger salamander habitat within designated critical habitat.

Least Bell's Vireo

The VHP maps all riparian habitat along Santa Clara County creeks draining to the Pajaro River as "primary habitat" for the Least Bell's Vireo. However, suitable habitat for this species is absent from most Project work locations due to the absence of dense, woody riparian vegetation. Only two vaults are located close to such habitat – PC 2 and PC 34 – although vegetation near those two sites may not be dense enough to serve as nesting habitat for this species, and no riparian vegetation would be directly impacted at those sites. Willow riparian habitat is present in the San Felipe Lake area, but SCC 11, SCC 12, and SCC 13 do not have suitable riparian habitat for this species, and surveys in 2003 revealed no breeding habitat in areas adjacent to SCC 13 (Rana Resources 2003). In addition, preconstruction surveys and monitoring during the replacement of culverts under the Calaveras Fault Inlet/Outlet access road, between SCC 13 and SCC 17, in 2016 did not detect any Least Bell's Vireos. Surveys conducted along nearby areas of prior occurrence (lower Llagas Creek) by Valley Water biologists have not detected any Least Bell's Vireos in or near the Project area since 2001. Therefore, there is a very low probability of this species' occurrence anywhere near the Project area.

Project activities will not impact nesting or important foraging habitat for Least Bell's Vireos. In the absence of avoidance and minimization measures, there would be some potential for nesting vireos to be disturbed, possibly to the point of nest abandonment, if Project activities at PC 2, PC 34, and possibly SCC 13 occurred close enough to an active nest. However, implementation of standard Valley Water BMPs, including BMP BI-5 to avoid impacts to active nests of protected birds, would

ensure that any nesting Least Bell's Vireos are avoided, in the unlikely event that the species were to be nesting in the Project area when construction occurs (as described in Section 2.2.13.2). As a result, no injury, mortality, or disturbance of Least Bell's Vireos will result from the Project. In addition, the Project will pay VHP impact fees for impacts that occur in Santa Clara County. These fees will contribute to the VHP's conservation program, which will protect, restore, enhance, and manage habitat for Least Bell's Vireos and other covered species.

San Joaquin Kit Fox

According to the VHP, kit foxes are expected to occur in the Project vicinity only in the Pacheco Creek/Highway 152 corridor and around San Felipe Lake. The most likely habitat to be used by the kit fox would be California annual grassland and other habitats at PC 2, 15, 16, 17, 34, 38 and SCC 8. Habitat near SCC 11, 12, and 13 is less suitable for the species given the predominance of wetlands and proximity to residences in those areas, but kit foxes could possibly disperse through those areas. Agricultural lands at SCC 17, 18, 19 and 20 could also be used by kit foxes for dispersal. This species has not been recorded and is not expected to occur along the portion of the Project alignment north of SCC 20.

The Project would result in permanent impacts to 2.71 acres (1.07 acres in San Benito County and 1.64 acres in Santa Clara County) and temporary impacts to 1.81 acres (0.73 acres in San Benito County and 1.08 acres in Santa Clara County) of California annual grassland, riparian habitats, and agricultural lands that provide potential dispersal habitat for this species within work areas from PC 2 west/northwest to SCC 20. Within that geographic area, the Project would also result in permanent impacts to 0.44 acres (0.44 acres in San Benito County and <0.01 acres in Santa Clara County) and temporary impacts to 0.43 acres (0.43 acres in San Benito County and <0.01 acres in Santa Clara County) of ephemeral streams, seasonal wetlands, and coastal and valley freshwater marsh habitats that provide lower-quality habitat for the upland-associated kit fox due to their wetter conditions, but that could potentially be used by dispersing individuals.

Kit foxes apparently occur in the Project vicinity very infrequently and thus, there is a low potential for Project impacts to this species. Nevertheless, in the absence of protective measures, there is some potential for individuals to be killed or injured due to collapse of their dens during construction, or due to being struck by construction vehicles. Individuals could also be subject to harassment (e.g., disturbance) during Project activities. However, these effects would be minimized with implementation of the measures listed in Section 2.2.13.2. Those measures include surveys for and protection of any active dens (in the highly unlikely event that a den is found to be present), preventing injury or death of any individual foxes. With implementation of those measures, adverse effects of the Project on the San Joaquin kit fox would be so low as to be considered insignificant, and therefore, this species is not likely to be adversely affected. In addition, the Project will pay VHP impact fees for impacts that occur in Santa Clara County. These fees will contribute to the VHP's conservation program, which will protect, restore, enhance, and manage habitat for the San Joaquin kit fox and other covered species.

South-Central California Coast Steelhead

The South-Central California Coast steelhead occurs in the Project vicinity within Pacheco Creek, and it uses Millers Canal to move between the Pajaro River and Pacheco Creek. However, no Project sites are located immediately adjacent to, or require impacts (e.g., for access) to, any of these waterbodies. Therefore, no Project activities will result in direct impacts on steelhead or waters in which they occur.

In the absence of water quality protection measures, there would be some potential for indirect impacts on steelhead and their habitat from sediment mobilization into tributaries of steelhead-bearing streams, and thus eventually into habitat that steelhead could occupy. However, Valley Water will implement a number of BMPs and avoidance and minimization measures, as discussed in Section 2.2.13.2. With implementation of the environmental commitments listed in Section 2.2.13.2, there would be minimal impacts on water quality, and no impacts on individual steelhead or steelhead habitat.

Monarch Butterfly

The monarch butterfly occurs in the Project vicinity primarily as an uncommon migrant through the Action area. This species lay eggs on milkweed (*Asclepias* spp.) plants, and the larvae develop feeding on those plants. Although milkweed plants are likely present at scattered locations in the Project vicinity, no milkweed plants were observed during protocol-level surveys for special-status plants (H. T. Harvey & Associates 2014), during which all observed plant species were recorded. Therefore, milkweed is expected to be scarce and of limited occurrence at Project work sites. The Project will have little impact, if any, on milkweed plants, and therefore on eggs, larvae, or pupae of the monarch butterfly. No monarch butterfly overwintering sites are known or expected to occur in the Project vicinity (https://www.westernmonarchcount.org/find-an-overwintering-site-near-you/), and therefore none will be impacted.

Although Project activities could potentially result in the loss of flowers that provide nectar for adult monarchs, such nectar sources are regionally abundant and widespread, and the Project will not result in any impacts on regional populations of monarch butterflies, their larval hostplants, or their nectar sources.

3.4 Cultural Resources

3.4.1 Affected Environment

The area of potential effects (APE) includes six discontiguous locations across several sections and different townships and ranges within the Mount Diablo Base and Meridian as depicted on the Gilroy and San Felipe 7.5' U.S. Geological Survey topographic quadrangle maps. The APE will not exceed 1 foot to accommodate any grading necessary for the construction of pavement connecting to existing roadways and placement of gravel for the path. All staging will be on existing roadways.

In an effort to identify historic properties in the APE, Reclamation conducted a review of prior consultation and internal cultural resources reporting, a records search at the California Historical Information Center (NWIC File No.: 20-1935) and a pedestrian survey.

No historic properties were identified as a result of these efforts. The APE has been previously modified by roadway construction, existing utilities, residential development, and the buried conduits. Consequently, the potential for buried, intact cultural resources or historic properties within the APE is negligible

3.4.2 Environmental Consequences

3.4.2.1 No Action
There would be no impacts under the No Action Alternative as there would be no change from current conditions.

3.4.2.2 Proposed Action
Project construction activities would occur in areas consisting mostly of fill material or high disturbance from previous conduit and roadway construction, and thus the likelihood of encountering unrecorded archeological resources is low. No major excavation activities are proposed as part of the Project except for pathway grading activities at SCC 8 (maximum depth from 6-inches to one foot in depth). Only minor ground disturbance would occur during gravel collar, gate, fencing, or sign installation activities.

3.5 Climate Change

3.5.1 Affected Environment
Greenhouse gases and climate change are cumulative global issues. The California Air Resources Board and the U.S. Environmental Protection Agency regulate greenhouse gas emissions in California and the U.S., respectively. While the California Air Resources Board has the primary regulatory responsibility for greenhouse gas emissions in California, local agencies such as Bay Area Air Quality Management District and Monterey Bay Air Resources District can also adopt policies for greenhouse gas emission reduction.

Gases that trap heat in the atmosphere are often called greenhouse gases. Some greenhouse gases, such as carbon dioxide, occur naturally and are emitted to the atmosphere through natural processes and human activities. Other greenhouse gases (e.g., fluorinated gases) are created and emitted solely through human activities. The principal greenhouse gases that enter the atmosphere because of human activities are carbon dioxide, methane, nitrous oxide, and fluorinated gasses (U.S. Environmental Protection Agency 2019). Greenhouse gas emissions are typically measured in terms of tons of carbon dioxide equivalents.

3.5.2 Environmental Consequences

3.5.2.1 No Action
Under the No Action Alternative, no construction would occur and greenhouse gas emissions in the Project area would remain the same.

3.5.2.2 Proposed Action
Greenhouse gases would be generated through the use of construction equipment. Valley Water estimated these emissions through CalEEMod as part of their air quality analysis in their Initial Study (Valley Water 2021). A summary of the estimated greenhouse gas emissions is included in Table 8.

Table 8. Estimated Greenhouse Gas Emissions by County

County	Carbon dioxide	Methane	Nitrogen dioxide	Total as Carbon dioxide equivalents
San Benito	9.97 metric tons per year	0.003 metric tons per year	10.05 metric tons per year	**10.05 metric tons per year**
Santa Clara	67.03 metric tons per year	0.02 metric tons per year	<0.001 metric tons per year	**65.7 metric tons per year**

Source: Valley Water 2021

As shown in Table 8, annual construction emissions of carbon dioxide equivalents are estimated to be 10.05 and 65.7 metric tons in San Benito and Santa Clara counties, well less than the U.S. Environmental Protection Agency's 25,000 metric tons per year threshold for annually reporting greenhouse gas emissions or the 10,000 and 1,100 metric tons used by Bay Area Air Quality Management District and Monterey Bay Air Resources District as thresholds of significance. Accordingly, the Proposed Action would result in below de minimis impacts to greenhouse emissions and global climate change.

3.6 Water Resources

3.6.1 Affected Environment

The Pacheco Conduit, Santa Clara Conduit, and associated appurtenances supply CVP water to Valley Water and San Benito County Water District.

3.6.2 Environmental Consequences

3.6.2.1 No Action

Under the No Action alternative, no impacts to water quality would occur due to construction activities. However, without access improvements, Valley Water would continue to be impaired in conducting needed maintenance at certain locations along the conduits which could lead to conduit or appurtenance failures. Any rupture or failure of the system would adversely impact water supplies within both counties.

3.6.2.2 Proposed Action

Construction activities would be localized at individual path, driveway, gate, sign, and gravel collar Project construction sites along the Pacheco and Santa Clara Conduits. Proposed site clearing, grading, and excavation activities would involve ground disturbing activities that have the potential to contribute to erosion and subsequent increased input of fine sediments to nearby creeks. Potential pollutants such as fuel, grease, and solvents typically used in construction activities would also have the potential to degrade water quality in nearby creeks.

The total proposed Project would have ground disturbance of approximately one acre. The State of California requires that any construction activity affecting one acre or more obtain coverage under the General Construction Activity Stormwater Permit (General Permit, SWRCB Order 2009-0009-DWQ) to minimize potential effects of construction runoff on receiving water quality. Valley Water will implement the General Permit requirements, including preparation of a State Water Pollution Prevention Plan that would cover all construction sites with specific measures to prevent or

minimize pollutants in runoff and manage flows such that the proposed project would not cause increased runoff. In addition, Valley Water has also incorporated specific measures and BMPs (Section 2.2.11.2 and 2.2.11.4) into the Project to avoid or minimize potential water quality impacts.

4 Consultation and Coordination

4.1 Agencies and Persons Consulted

Reclamation and Valley Water has or will consult and coordinate with the following:

- National Marine Fisheries Service
- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service
- Santa Clara Valley Water District
- Amah Mutsun Tribal Band
- Indian Canyon Mutsun Band of Costanoan
- Muwekma Ohlone Indian Tribe
- North Valley Yokuts Tribe
- The Ohlone Indian Tribe

4.2 Public Involvement

Reclamation provided the public with an opportunity to comment on the Draft EA between August 12, 2022 and September 12, 2022. No comments were received.

4.3 Clean Water Act (33 U.S.C. § 1251 et seq.)

Section 301 of the Clean Water Act (33 U.S.C. § 1311) prohibits the discharge of any pollutants into waters of the United States, except as allowed by permit issued pursuant to various sections of the Clean Water Act.

4.3.1 Section 401

Section 401 of the Clean Water Act (33 U.S.C. § 1341) requires any applicant for an individual Army Corps of Engineers (Corps) dredge and fill discharge permit (see Section 404, below) to first obtain certification from the state that the activity associated with dredging or filling will comply with applicable state effluent and water quality standards. This certification must be approved or waived prior to the issuance of a permit for dredging and filling.

Valley Water would obtain applicable Clean Water Act Section 401 Water Quality Certification and General Order permits from the Central Coast Regional Water Quality Control Board.

4.3.2 Section 404

Section 404 of the Clean Water Act (33 U.S.C. § 1344) authorizes the Corps to issue permits to regulate the discharge of "dredged or fill materials into waters of the United States". No activities such as dredging or filling of wetlands or surface waters would be required for implementation of the Proposed Action, therefore permits obtained in compliance with CWA section 404 are not required.

Valley Water would obtain Clean Water Act Section 404 permit coverage through one or more U.S. Army Corps of Engineers Nationwide Permits. It is expected that Nationwide Permit 58 would be required.

4.4 Endangered Species Act (16 U.S.C. § 1531 et seq.)

Section 7 of the Endangered Species Act requires Federal agencies, in consultation with the Secretary of the Interior and/or Commerce, to ensure that their actions do not jeopardize the continued existence of endangered or threatened species, or result in the destruction or adverse modification of the critical habitat of these species.

On September 16, 2015, Reclamation sent a biological assessment to the Service to request consultation on the Proposed Action covering both Santa Clara and San Benito Counties. The biological assessment was also sent to the National Marine Fisheries Service. On December 9, 2015, the National Marine Fisheries Service informed us that no consultation was needed with them.

On July 20, 2016, it was decided (multi-agency) that Reclamation would send a biological assessment to the Service Ventura Office to request consultation on the Proposed Action elements located only within San Benito County. This action would be separate from actions that the Service Sacramento Office will be reviewing in terms of utilizing the VHP for incidental take that only covers project actions within Santa Clara County.

On January 13, 2022, Reclamation requested consultation with the Service. A VHP form was sent to the Service for the portion of the project in Santa Clara County, and a biological assessment for the portion in San Benito County. For the portion of the action area in San Benito County, Reclamation determined that the Proposed Action may adversely affect the California red-legged frog, and the California tiger salamander, and may affect, but is not likely to adversely affect the San Joaquin kit fox, and Least Bell's Vireo. Reclamation made the same effects determinations for the portion of the action area in Santa Clara County. The project's Santa Clara County activities will also impact designated critical habitat for the California red-legged frog and California tiger salamander.

On September 9, 2022, Reclamation received a biological opinion/concurrence letter from the Service Ventura Office (Appendix B). On September 15, 2022, the Service Sacramento Office explained via an email message that the biological opinion/concurrence letter also covered the impacts in Santa Clara County.

4.5 Title 54 U.S.C. § 306108, Commonly Known as Section 106 of the National Historic Preservation Act

Title 54 U.S.C. § 306108, commonly known as Section 106 of the National Historic Preservation Act (formerly 16 U.S.C. 470 et seq.), requires Federal agencies to consider the effects of their undertakings on historic properties, properties determined eligible for inclusion in the National Register, and to afford the Advisory Council on Historic Preservation an opportunity to comment. Compliance with Section 106 follows a series of steps, identified in its implementing regulations found at 36 CFR Part 800, that include identifying consulting and interested parties, identifying historic properties within the area of potential effect, and assessing effects on any identified historic properties, through consultations with the State Historic Preservation Officer (SHPO), Indian tribes and other consulting parties.

Pursuant to 36 CFR § 800.4(a)(3), Reclamation invited five non-federally recognized tribes (Amah Mutsun Tribal Band, Indian Canyon Mutsun Band of Costanoan, Muwekma Ohlone Indian Tribe, North Valley Yokuts Tribe, and The Ohlone Indian Tribe) to assist in identifying sites of religious and cultural significance. Letters dated November 11, 2021, were sent to the tribes. No responses have been received to date stating concerns for the proposed project. Should any issues arise, Reclamation will work directly with the tribe(s) to resolve them. No federally recognized tribes having a potential interest in the proposed project were identified.

Reclamation initiated consultation with SHPO by letter dated February 4, 2022, with a notification of a determination of no historic properties affected for the proposed undertaking. SHPO responded by letter dated February 17, 2022, expressing no objection to Reclamation's determination.

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