Final Initial Study and Mitigated Negative Declaration for the Waste Management Unit Restoration Project

State Clearinghouse No. 2025110098

Prepared by:
San Francisco Bay
Regional Water Quality Control Board
Oakland, California 94612

1 Final Initial Study Mitigated Negative Declaration

This Final Initial Study Mitigated Negative Declaration (Final ISMND) is being prepared pursuant to the California Environmental Quality Act (CEQA; Division 13, California Public Resources Code [PRC]). This Final ISMND meets CEQA content requirements by including a project description; descriptions of the existing environmental setting, potential environmental impacts, and mitigation measures for any potentially significant impacts; and discussion of the proposed project's consistency with plans and policies.

1.1 Proposed Project

The San Francisco Bay Regional Water Quality Control Board (Water Board, referred to as the SFRWQCB in the draft ISMND) has prepared this ISMND to address the environmental effects of the Waste Management Unit Restoration Project (Project) at the Martinez Renewable Fuels Facility (Facility) in Contra Costa County, California (County). The Project would involve the closure of inactive Waste Management Units 10, 11, 14, 31, and 32 (Project WMUs) and mitigation and maintenance of the Project WMUs. The Project WMUs are located on Facility-owned property approximately two miles east of the Benicia-Martinez Bridge and Interstate 680 (I-680) along Waterfront Road.

1.2 Determination

Based on the analysis provided in this Final ISMND, the Water Board finds that the proposed Project would not have a significant effect on the environment with mitigation incorporated. The Final ISMND considers all public comments and includes text edits that clarify or expand upon discussions in the draft ISMND. Five mitigation measures were modified and one new measure was added in the Final ISMND to respond to agency comments. The Water Board finds that the updated mitigation measures will more effectively reduce potential resource impacts and that the Project will not cause any potentially significant effects on the environment. There were no modifications to the document that constitute a significant change or significant new information. Therefore, recirculation is not required.

1.3 Final ISMND Organization

This Final ISMND has been prepared in accordance with the requirements of CEQA (PRC Section 21000 et seq.) and the CEQA Guidelines (California Code of Regulations [CCR] Section 15000 et seq.), and it includes the following:

- Section 1: An introduction to the Final ISMND, including the Water Board's findings.
- Section 2: A summary of public and agency comments received on the draft ISMND, including details on distribution of the draft ISMND and acknowledgement or response to comments received.
- Section 3: Modifications to the draft ISMND.
- Section 4: A summary of mitigation measures.

2 Public and Agency Comments

2.1 Distribution of the Draft ISMND

In accordance with the CEQA statues and Guidelines, on November 5, 2025, the Water Board circulated the Draft ISMND for a 30 day comment period along with the Notice of Intent to Adopt a Mitigated Negative Declaration (Notice) through the State Clearinghouse. The Water Board also sent the Notice to the Contra Costa County Clerk and all known interested parties, and posted it on and off site in the area of the Project. The draft ISMND was also posted on the Water Board's website and hard copies were available upon request. The Water Board considered all testimony and evidence at a public hearing on February 11, 2026.

2.2 Comments on the Draft ISMND

During the public review period, responsible agencies and the public had an opportunity to provide written comments on the information contained within the draft ISMND. These comments are included in the record and were considered by the Water Board during deliberation as to whether necessary approvals should be granted to the proposed Project. As stated in Section 21064.5 of the CEQA Guidelines, a project would only be approved when the lead agency finds that "revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur" and "there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment."

The Water Board received two comment letters during the State Clearinghouse review period from the following entities:

- California Department of Conservation, Geologic Energy Management Division (CalGEM)
- California Department of Fish & Wildlife (CDFW)

The comment letters are available upon request. To request copies of the comment letters, please contact Katie Hart at (510) 622-2356 or Kathryn.Hart@waterboards.ca.gov. The Water Board acknowledges the comments included with these correspondences. The comment letter from CalGEM reviewed oil, gas, and geothermal well records within the Project boundary and found no records of known oil or gas wells. Their letter summarizes existing regulations and landowner responsibilities regarding active and abandoned wells, and statutory authority of the Geologic Energy Management Division over oil, gas, and geothermal wells.

Comments from CDFW pertain to the California Endangered Species Act (CESA), California fully protected wildlife species, protection of raptors and other nesting birds,

and potential presence of special-status plants. The comments received do not affect the findings presented in the draft ISMND.

3. Modifications to the Draft IS/MND

This section of the Final ISMND documents changes the Water Board made to the draft ISMND in response to comments. Only paragraphs, tables, or figures wherein text was deleted or added are included in this section. The symbol "[. . .]" denotes where a paragraph(s) is skipped between others that contain edits. Deleted text is marked as ~~strikeout~~, and new text is marked as underlined. Table and section references included in the following text refer to respective items from the draft ISMND. The draft ISMND, as updated by the changes below, is incorporated into the Final ISMND. See the draft ISMND for acronym definitions.

Section 5.4 – Biological Resources [. . .]
Section 5.4.3 – Environmental Impact Analysis [. . .]

Impact BIO-1	**Have a substantial adverse effect, either directly or through habitat modifications on any species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?**

[. . .]

Level of Significance Before Mitigation

Potentially Significant Impact

Mitigation Measures

MM BIO-1 Avoid Disturbance of Nesting Special-Status and Non-Special-Status Raptors and other Migratory Birds, including northern harrier, Suisun song sparrow. If construction activities are scheduled during the ~~breeding and/or~~ nesting season (February 15 through August 31), a qualified biologist shall conduct a ~~preconstruction nest~~ focused pre-construction nesting bird survey throughout the Project area no more than 5 days prior to the initiation of ~~suitable nesting habitat~~ Project-related activities. Surveys shall be performed for the Project construction and staging areas and suitable habitat within 250 feet of the Project construction and staging areas ~~in order~~ to locate any active passerine (perching bird) nests and within ~~500~~ 1,000 feet of the Project construction and staging areas to locate any active raptor (birds of prey) ~~nest. The survey shall be conducted not more than 14 calendar days prior to the start of work.~~ nests. If nesting passerines and raptors ~~do~~ are not ~~occur~~ observed within 250 and ~~500~~ 1,000 feet of the Project area~~,~~ respectively, then no further action is required if construction begins within ~~14 calendar~~ 7 calendar days. In the event that there is a lapse in construction activities for 7 days or more, a qualified biologist will conduct additional focused pre-construction nesting bird surveys in areas of potential

habitat again before Project activities can be reinitiated. If the survey indicates the potential presence of nesting birds, the biologist shall determine an appropriately sized active nest buffer. ~~buffer around the nest and no work will be allowed in this buffer until the young have successfully fledged. The size of the nest buffer will be determined by a qualified biologist and will depend on the species present, the level of noise or construction disturbance, line of sight between the nest and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers. In general, buffer sizes of up to 300–500 feet for raptors and 50–250 feet for other birds should suffice to prevent disturbance, but these buffers may be increased or decreased, as appropriate, depending on the bird species and the level of disturbance anticipated near the nest.~~

Active Nest Buffers. Active nest sites and protective buffer zones shall be designated as "ecologically sensitive areas" where no Project-related activities or personnel may enter while a nest is active during nesting bird season with the establishment of a fence, barrier, or flagging surrounding the nest site. The qualified biologist will determine the necessary buffer to protect nesting birds based on species present, existing site conditions, such as construction activity, topography, existing barriers, and line of sight, and will increase buffers as needed to provide sufficient protection of nesting birds and their natural behaviors.

Active Nests. A qualified biologist shall observe any identified active nests prior to the start of any Project-related activities to establish a behavioral baseline of the adults and any nestlings. Once Project activities commence, active nests shall be monitored by a qualified biologist to detect any signs of disturbance and behavioral changes resulting from Project activities. If signs of disturbance and behavioral changes are observed, the qualified biologist shall either halt Project activities causing that change or increase and/or modify the protective buffer zone size until the nestlings have fledged and the nest is determined to be inactive.

MM BIO-2 Avoid Disturbance of Burrowing Owls. A qualified biologist shall conduct at least two Take Avoidance Surveys using the methods described in the Staff Report on Burrowing Owl Mitigation, (Conservation and Management of Wildlife and Habitat).

No more than 14 days prior to any ground disturbing activities (regardless of time of year), a qualified biologist shall conduct a take avoidance survey for burrowing owls. If no owls are found during this first survey, a final survey shall be conducted within 24 hours prior to ground disturbance to confirm that burrowing owls are still absent. If ground disturbing activities are delayed or suspended for more than 14 days after the initial take avoidance survey, the site shall be resurveyed (including the final survey within 24 hours of disturbance).

If burrowing owls are found within the Project area during the surveys, a qualified biologist shall inspect all open holes and trenches within the Project area at a minimum of twice a day and immediately prior to backfilling. If the surveys identify breeding or wintering burrowing owls on or adjacent to the Project area, the qualified biologist(s) shall be present during construction activities to monitor the behavior of any burrowing owl. The qualified biologist(s) shall have the authority to stop work if burrowing owls

exhibit distress and/or abnormal behavior for (e.g., excessive vocalizations, defensive flights at intruders, flushing frequently, or otherwise displaying agitated behavior). If burrowing owls are present a qualified biologist shall clearly delineate a no-disturbance buffer around all burrowing owl burrows, including nesting, roosting, and satellite burrows, or the entire burrow complex within 150 meters of the Project area with posted markers demarking the area to avoid, using stakes, flags, and/or rope or cord to minimize the disturbance of burrowing owl habitat. Buffers shall be determined based upon the time of year and level of disturbance as described in the CDFW 2012 Staff Report. If burrows cannot be fully avoided, CDFW shall be consulted. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

~~Because suitable habitat is present on the site and a burrowing owl has been observed in the PROJECT site, preconstruction take avoidance surveys for burrowing owls shall be implemented prior to construction activities. These surveys shall conform to the survey protocol established by the CDFW Staff Report on Burrowing Owl Mitigation. The following measures are consistent with the provisions of the Migratory Bird Treaty Act and the CDFW staff report.~~

- ~~No more than 14 days prior to any ground disturbing activities (regardless of time of year), a qualified biologist shall conduct a take avoidance survey for burrowing owls. If no owls are found during this first survey, a final survey shall be conducted within 24 hours prior to ground disturbance to confirm that burrowing owls are still absent. If ground disturbing activities are delayed or suspended for more than 14 days after the initial take avoidance survey, the site shall be resurveyed (including the final survey within 24 hours of disturbance). All surveys shall be conducted in accordance with CDFW guidelines.~~

- ~~If burrowing owls are found on the site during the surveys, mitigation shall be required in accordance with CDFW guidelines. If the surveys identify breeding or wintering burrowing owls on or adjacent to the site, occupied burrows shall not be disturbed and shall be provided with protective buffers. Where avoidance is not feasible, an exclusion plan shall be implemented to encourage owls to move away from the work area prior to construction. The exclusion plan shall be developed in consultation with CDFW and monitoring requirements. Mitigation would include the purchase of mitigation bank credits for burrowing owl foraging habitat at a minimum 1:1 ratio for the loss of suitable foraging habitat caused by the construction of the PROJECT or the preservation of equivalent lands.~~

MM BIO-3 Avoid and Minimize Impacts to Salt Marsh Harvest Mouse and Suitable SMHM Replacement. The Applicant shall compensate for the temporary disturbance of 24.64 acres and the permanent loss of 11.27 acres of SMHM habitat by preserving and managing land offsite to conserve the species and to offset temporary and permanent impacts to potential SMHM habitat due to Project activities. A total of 83.09 acres would be preserved through the preservation and management of high quality SMHM habitat in perpetuity at the Cordelia Slough Preserve in Suisun Bay (Solano County, California) as approved by USFWS long-term management plan with a fully-funded endowment.

Prior to the commencement of construction, the following measures will be conducted in an effort to ensure no SMHM are present in the Project area. A qualified biologist shall conduct a SMHM habitat assessment prior to the start of construction to determine areas of potential SMHM habitat. Prior to Project activities (e.g., vegetation removal, disturbance to vegetation) occurring in potential SMHM habitat, a qualified biologist, familiar with SMHM, shall walk through and inspect suitable habitat and search for signs of harvest mice or other sensitive wildlife and plants. If a salt-marsh harvest mouse is discovered, no work shall occur within 150 feet of that location. Personnel, under the supervision of the qualified biologist, will remove vegetation in potential SMHM habitat using only hand tools (e.g., weed-eater, hoe, rake, trowel, shovel, grazing) so that vegetation in potential SMHM habitat is no taller than two inches. If string trimmers (a.k.a. weed whackers) are used, they shall be used to the minimum extent necessary and shall be used to take down vegetation height a couple inches at a time so that the biological monitor can search for potential salt-marsh harvest mouse nests. If a SMHM nest is discovered, all work shall stop immediately, the qualified biologist shall implement a no work protective buffer surrounding the nest and CDFW shall be notified.

MM BIO-4 Avoid and Minimize Impacts to California Black Rail and Ridgway's rail and Suitable CRR replacement habitat. If construction activities are scheduled during the CRR breeding season, pre-construction CRR surveys will be conducted by a qualified biologist. CRR surveys will be conducted prior to construction start at WMUs within 700 feet of suitable habitat within the Point Edith Wildlife Area. After pre-construction surveys are conducted, with negative survey results, they will not be repeated each rail breeding season in Project work areas where continuous construction is conducted. As the Project schedule continues after the initial WMU work is initiated, new phases of work may be started adjacent to CCR-surveyed areas where there is continuous construction. At these new construction locations, adjacent continuous construction work will not stop for new Project pre-construction CRR surveys as long as construction is not conducted during the CRR survey events. Surveys will conform to the following parameters:

- CRR surveys shall be conducted between January 15 and mid-April.
- Listening stations will be utilized during each survey to cover tidal marsh areas suitable for CRR breeding within 700 feet of the Project Area
- Three surveys will be conducted, tentatively scheduled for 2028 and 2030. The first two surveys will be passive, spending at least 10 minutes listening at each station. If CRR were not detected during the first two surveys, the third survey will use active broadcasting (call playback) as described below.
- During an active survey, a 5-minute passive listening period will occur at each survey station, followed by 1 minute of broadcasting CRR calls and 4 minutes of listening (a total of 10 minutes per survey station). A total of four clatter or duet calls will be broadcast, with at least 5 seconds of silence between the calls. Broadcasting will cease immediately upon detection of CRR within 700 feet of the station.
- Surveys will be conducted at dawn or dusk. Dawn surveys will occur during the period from one hour before sunrise until one and a half hours after sunrise; dusk

surveys will occur during the period from one hour before sunset to one hour after sunset. Surveys can be conducted at both sunrise and sunset.

- Surveys will not be conducted when tides greater than 4.5 feet NGVD are predicted at the Golden Gate Bridge during the survey period (with the timing of the tide adjusted to the survey area), or within two days of a full moon when the moon is visible in the sky during the survey.
- Surveys will be conducted a minimum of 7 days apart.
- Surveys will not be conducted when wind velocities exceed 10 mph or during heavy rains.

If an active CRR nest is found, no work will occur within 700 feet of the identified active CRR nest during the rail nesting season. The qualified biologist will have authority to stop work if construction activities cause disturbance to nesting CRR (e.g., CRR vocalize or fly away from a nest).

The Applicant shall fund the restoration of 5.5 acres of tidal marsh habitat/high tide refuge habitat for the CRR through channel excavation and creation of marsh mounds in the Sonoma Creek Marsh Enhancement Project at the San Pablo Bay National Wildlife Refuge in Sonoma, California, as offsite compensatory mitigation for the effects of the Project on the CRR and other rails. The Applicant shall provide the funding prior to the initiation of construction of the Project.

MM BIO-5 General wildlife protection measures for wildlife during construction.

- A qualified biologist will provide Worker Environmental Awareness Training (WEAT) to field management and construction personnel. Communication efforts and training will take place during preconstruction meetings so that construction personnel are aware of their responsibilities and the importance of compliance. WEAT will identify the types of sensitive resources located in the Project area and the measures required to avoid impacts on these resources. Materials covered in the training program will include environmental rules and regulations for the specific Project and requirements for limiting activities to the construction right-of-way and avoiding demarcated sensitive resource areas.
- If new construction personnel are added to the Project, the contractor will ensure the new personnel receive WEAT before starting work. A sign-in sheet of those contractor individuals who have received the training will be maintained by the Project proponent. A representative will be appointed during the WEAT to be the contact for any employee or contractor who might inadvertently kill or injure a listed species or who finds a dead, injured, or entrapped individual. The representative's name and telephone number will be provided to the USFWS before the initiation of ground disturbance.
- If individuals of listed wildlife species may be present and subject to potential injury or mortality from construction activities, a qualified biologist will conduct preconstruction surveys. If a listed wildlife species is discovered, construction activities will not begin in the immediate vicinity of the individual until USFWS and/or CDFW is contacted, and the individual has been allowed to leave the construction area.

- Minimum qualifications for a qualified biologist will be a four-year college degree in biology or related field and demonstrated experience with the species of concern.
- Any special-status species observed during surveys will be reported to the USFWS and CDFW so the observations can be added to the CNDDB.
- All vehicle operators will limit speed to 15 mph within the Project area.
- Prior to the commencement of construction, exclusion fencing will be installed to protect western pond turtles during turtle nesting season (May 1–August 31) in the work areas adjacent to waterways.

[. . .]

MM BIO-8 Avoid and Minimize Impacts to Special Status Plants. Prior to construction, a qualified biologist shall conduct one year of focused surveys within the Project area for special-status plants. Surveys shall be conducted during the appropriate blooming period for species with the potential to be present in areas disturbed during the Project.

If a special-status plant is found during pre-construction surveys, high visibility protective fencing shall be installed around the plants to prevent construction staff or equipment from entering this area. The protective fencing size shall be species specific, with a minimum buffer radius based on the guidance from a qualified biologist.

If a CESA-listed plant species is found within the Project area, high visibility protective fencing shall be installed around the plants. CDFW would be notified prior to initiating construction. If construction has already commenced, work in the vicinity shall cease until coordination with CDFW has been completed.

If individual special status plants cannot be avoided by Project activities, a qualified biologist shall harvest seeds or propagules from at least 50 percent of plants within areas of impact. Harvested seed or propagules shall be stored for reintroduction into temporarily disturbed portions of the Project site after construction is finished. A qualified biologist shall reintroduce the seed and/or propagules during the first autumn following completion of construction activities.

4 Summary of Mitigation Measures

Table 1 presents the mitigation measures that would be incorporated as part of proposed Project approval through the Mitigation Monitoring and Reporting Program (MMRP).

Table 1
Final Mitigation Measures

Mitigation Measures
MM AIR-1: Implement Construction Best Management Practices. The Applicant shall require all construction contractors to implement the basic construction mitigation measures recommended by the BAAQMD to reduce fugitive dust emissions. Emission reduction measures will include, at a minimum, the following measures. Additional measures may be identified by the BAAQMD or contractor as appropriate.

a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) will be watered two times per day.
b. All haul trucks transporting soil, sand, or other loose material off-site will be covered.
c. All visible mud or dirt track-out onto adjacent public roads will be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
d. All vehicle speeds on unpaved roads will be limited to 15 mph.
e. Idling times shall be minimized either by shutting equipment off when not in use or by reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of CCR). Clear signage shall be provided for construction workers at all access points.
f. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
g. Post a publicly visible sign with the telephone number and person to contact at the BAAQMD regarding dust complaints. This person will respond and take corrective action within 48 hours.

MM BIO-1 Avoid Disturbance of Nesting Special-Status and Non-Special-Status Raptors and other Migratory Birds, including northern harrier, Suisun song sparrow. If construction activities are scheduled during the nesting season (February 15 through August 31), a qualified biologist shall conduct a focused pre-construction nesting bird survey throughout the Project area no more than 5 days prior to the initiation of Project-related activities. Surveys shall be performed for the Project construction and staging areas and suitable habitat within 250 feet of the Project construction and staging areas to locate any active passerine (perching bird) nests and within 1,000 feet of the Project construction and staging areas to locate any active raptor (birds of prey) nests. If nesting passerines and raptors are not observed within 250 and 1,000 feet of the Project area respectively, then no further action is required if construction begins within 7 calendar days. In the event that there is a lapse in construction activities for seven days or more, a qualified biologist will conduct additional focused pre-construction nesting bird surveys in areas of potential habitat again before Project activities can be reinitiated. If the survey indicates the potential presence of nesting birds, the biologist shall determine an appropriately sized active nest buffer.

Active Nest Buffers. Active nest sites and protective buffer zones shall be designated as "ecologically sensitive areas" where no Project-related activities or personnel may enter while a nest is active during nesting bird season with the establishment of a fence, barrier, or flagging surrounding the nest site. The qualified biologist will determine the necessary buffer to protect nesting birds based on species present, existing site conditions, such as construction activity, topography, existing barriers, and line of sight, and will increase buffers as needed to provide sufficient protection of nesting birds and their natural behaviors.

Active Nests. A qualified biologist shall observe any identified active nests prior to the start of any Project-related activities to establish a behavioral baseline of the adults and any nestlings. Once Project activities commence, active nests shall be monitored by a qualified biologist to detect any signs of disturbance and behavioral changes resulting from Project activities. If signs of disturbance and behavioral changes are observed, the

qualified biologist shall either halt Project activities causing that change or increase and/or modify the protective buffer zone size until the nestlings have fledged and the nest is determined to be inactive.

MM BIO-2: **Avoid Disturbance of Burrowing Owls.** A qualified biologist shall conduct at least 2 Take Avoidance Surveys using the methods described in the Staff Report on Burrowing Owl Mitigation, (Conservation and Management of Wildlife and Habitat).

No more than 14 days prior to any ground disturbing activities (regardless of time of year), a qualified biologist shall conduct a take avoidance survey for burrowing owls. If no owls are found during this first survey, a final survey shall be conducted within 24 hours prior to ground disturbance to confirm that burrowing owls are still absent. If ground disturbing activities are delayed or suspended for more than 14 days after the initial take avoidance survey, the site shall be resurveyed (including the final survey within 24 hours of disturbance).

If burrowing owls are found within the Project Area during the surveys, a qualified biologist shall inspect all open holes and trenches within the Project Area at a minimum of twice a day and immediately prior to backfilling. If the surveys identify breeding or wintering burrowing owls on or adjacent to the Project Area, the qualified biologist(s) shall be present during construction activities to monitor the behavior of any burrowing owl. The qualified biologist(s) shall have the authority to stop work if burrowing owls exhibit distress and/or abnormal behavior for (e.g., excessive vocalizations, defensive flights at intruders, flushing frequently, or otherwise displaying agitated behavior). If burrowing owls are present a qualified biologist shall clearly delineate a no-disturbance buffer around all burrowing owl burrows, including nesting, roosting, and satellite burrows, or the entire burrow complex within 150 meters of the Project area with posted markers demarking the area to avoid, using stakes, flags, and/or rope or cord to minimize the disturbance of burrowing owl habitat. Buffers shall be determined based upon the time of year and level of disturbance as described in the CDFW 2012 Staff Report. If burrows cannot be fully avoided, CDFW shall be consulted. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

MM BIO-3:Avoid and Minimize Impacts to Salt Marsh Harvest Mouse and Suitable SMHM Replacement. The Applicant shall compensate for the temporary disturbance of 24.64 acres and the permanent loss of 11.27 acres of SMHM habitat by preserving and managing land offsite to conserve the species and to offset temporary and permanent impacts to potential SMHM habitat due to Project activities. A total of 83.09 acres would be preserved through the preservation and management of high quality SMHM habitat in perpetuity at the Cordelia Slough Preserve in Suisun Bay (Solano County, California) as approved by USFWS long-term management plan with a fully-funded endowment.

Prior to the commencement of construction, the following measures will be conducted in an effort to ensure no SMHM are present in the Project area. A qualified biologist shall conduct a SMHM habitat assessment prior to the start of construction to determine areas of potential SMHM habitat. Prior to Project activities (e.g., vegetation removal, disturbance to vegetation) occurring in potential SMHM habitat, a qualified biologist, familiar with SMHM, shall walk through and inspect suitable habitat and search for signs of harvest

mice or other sensitive wildlife and plants. If a salt-marsh harvest mouse is discovered, no work shall occur within 150 feet of that location. Personnel, under the supervision of the qualified biologist, will remove vegetation in potential SMHM habitat using only hand tools (e.g., weed-eater, hoe, rake, trowel, shovel, grazing) so that vegetation in potential SMHM habitat is no taller than two inches. If string trimmers (a.k.a. weed whackers) are used, they shall be used to the minimum extent necessary and shall be used to take down vegetation height a couple inches at a time so that the biological monitor can search for potential salt-marsh harvest mouse nests. If a SMHM nest is discovered, all work shall stop immediately, the qualified biologist shall implement a no work protective buffer surrounding the nest and CDFW shall be notified.

MM BIO-4: Avoid and Minimize Impacts to California Ridgway's rail and Suitable CRR replacement habitat. If construction activities are scheduled during the CRR breeding season, pre-construction CRR surveys will be conducted by a qualified biologist. CRR surveys will be conducted prior to construction start at WMUs within 700 feet of suitable habitat within the Point Edith Wildlife Area. After pre-construction surveys are conducted, with negative survey results, they will not be repeated each rail breeding season in Project work areas where continuous construction is conducted. As the Project schedule continues after the initial WMU work is initiated, new phases of work may be started adjacent to CCR-surveyed areas where there is continuous construction. At these new construction locations, adjacent continuous construction work will not stop for new Project pre-construction CRR surveys as long as construction is not conducted during the CRR survey events. Surveys will conform to the following parameters:

- CRR surveys shall be conducted between January 15 and mid-April.
- Listening stations will be utilized during each survey to cover tidal marsh areas suitable for CRR breeding within 700 feet of the Project Area
- Three surveys will be conducted, tentatively scheduled for 2028 and 2030. The first two surveys will be passive, spending at least 10 minutes listening at each station. If CRR were not detected during the first two surveys, the third survey will use active broadcasting (call playback) as described below.
- During an active survey, a 5-minute passive listening period will occur at each survey station, followed by 1 minute of broadcasting CRR calls and 4 minutes of listening (a total of 10 minutes per survey station). A total of four clatter or duet calls will be broadcast, with at least 5 seconds of silence between the calls. Broadcasting will cease immediately upon detection of CRR within 700 feet of the station.
- Surveys will be conducted at dawn or dusk. Dawn surveys will occur during the period from one hour before sunrise until one and a half hours after sunrise; dusk surveys will occur during the period from one hour before sunset to one hour after sunset. Surveys can be conducted at both sunrise and sunset.
- Surveys will not be conducted when tides greater than 4.5 feet NGVD are predicted at the Golden Gate Bridge during the survey period (with the timing of the tide adjusted to the survey area), or within two days of a full moon when the moon is visible in the sky during the survey.
- Surveys will be conducted a minimum of 7 days apart.
- Surveys will not be conducted when wind velocities exceed 10 mph or during heavy rains.

If an active CRR nest is found, no work will occur within 700 feet of the identified active CRR nest during the rail nesting season. The qualified biologist will have authority to stop

work if construction activities cause disturbance to nesting CRR (e.g., CRR vocalize or fly away from a nest).

The Applicant shall fund the restoration of 5.5 acres of tidal marsh habitat/high tide refuge habitat for the CRR through channel excavation and creation of marsh mounds in the Sonoma Creek Marsh Enhancement Project at the San Pablo Bay National Wildlife Refuge in Sonoma, California, as offsite compensatory mitigation for the effects of the Project on the CRR and other rails. The Applicant shall provide the funding prior to the initiation of construction of the Project.

MM BIO-5: General wildlife protection measures for wildlife during construction.

- A qualified biologist will provide Worker Environmental Awareness Training (WEAT) to field management and construction personnel. Communication efforts and training will take place during preconstruction meetings so that construction personnel are aware of their responsibilities and the importance of compliance. WEAT will identify the types of sensitive resources located in the Project area and the measures required to avoid impacts on these resources. Materials covered in the training program will include environmental rules and regulations for the specific Project and requirements for limiting activities to the construction right-of-way and avoiding demarcated sensitive resource areas.
- If new construction personnel are added to the Project, the contractor will ensure the new personnel receive WEAT before starting work. A sign-in sheet of those contractor individuals who have received the training will be maintained by the Project proponent. A representative will be appointed during the WEAT to be the contact for any employee or contractor who might inadvertently kill or injure a listed species or who finds a dead, injured, or entrapped individual. The representative's name and telephone number will be provided to the USFWS before the initiation of ground disturbance.
- If individuals of listed wildlife species may be present and subject to potential injury or mortality from construction activities, a qualified biologist will conduct preconstruction surveys. If a listed wildlife species is discovered, construction activities will not begin in the immediate vicinity of the individual until USFWS and/or CDFW is contacted, and the individual has been allowed to leave the construction area.
- Minimum qualifications for a qualified biologist will be a four-year college degree in biology or related field and demonstrated experience with the species of concern.
- Any special-status species observed during surveys will be reported to the USFWS and CDFW so the observations can be added to the CNDDB.
- All vehicle operators will limit speed to 15 mph within the Project area.

Prior to the commencement of construction, exclusion fencing will be installed to protect western pond turtles during turtle nesting season (May 1–August 31) in the work areas adjacent to waterways.

MM BIO 6: Mitigate for Permanent Impacts to Waters of the U.S. and/or Waters of the State. The Applicant shall replace on a “no net loss” basis (minimum 1:1 ratio) (in accordance with USACE and/or SFBRWQCB) the acreage and function of the 8.47 acres of wetlands and other waters that would be removed as a result of Project implementation. Permanent impacts will be mitigated through the provision of wetland creation credits from the North Suisun Mitigation bank. To further offset impacts to waters of the state, the Applicant purchased a parcel which comprises 19 acres that abuts the Suisun Bay and is adjacent to the site for the Lower Walnut Creek Restoration Project, a watershed enhancement project developed in a partnership between the John Muir Land Trust and the

Contra Costa Flood Control and Water Conservation District. The Applicant removed existing infrastructure and debris from the site and graded 8.60 acres to an elevation that allows for the future hydrologic connection with the Lower Walnut Creek Restoration site. The Applicant transferred the parcel to the John Muir Land Trust following completion of the grading. The work on this parcel is part of the County Flood Control and the Water Conservation District's Lower Walnut Creek Restoration Project and was evaluated in the County ISMND.

MM BIO-7: Mitigation and Monitoring Plan. The Applicant shall draft a Mitigation and Monitoring Plan describing the methods for restoring the 18.58 acres of temporarily impacted wetlands, describing success criteria for the restored wetland and the monitoring requirements. More specifically, the Plan shall include description of protocols for monitoring vegetation and geomorphology to evaluate Project performance, monitoring schedule, performance criteria and thresholds that would trigger adaptive management actions, and reporting, until the success criteria are obtained. The Plan will be subject to approval by USFWS, the USACE, SFBRWQCB, and BCDC prior to the start of construction. An annual report shall be prepared and provided to the above-listed regulatory agencies in each year that post-construction monitoring is conducted.

MM BIO-8 Avoid and Minimize Impacts to Special Status Plants. Prior to construction, a qualified biologist shall conduct one year of focused surveys within the Project area for special-status plants. Surveys shall be conducted during the appropriate blooming period for species with the potential to be present in areas disturbed during the Project.

If a special-status plant is found during pre-construction surveys, high visibility protective fencing shall be installed around the plants to prevent construction staff or equipment from entering this area. The protective fencing size shall be species specific, with a minimum buffer radius based on the guidance from a qualified biologist.

If a CESA-listed plant species is found within the Project area, high visibility protective fencing shall be installed around the plants. CDFW would be notified prior to initiating construction. If construction has already commenced, work in the vicinity shall cease until coordination with CDFW has been completed.

If individual special status plants cannot be avoided by Project activities, a qualified biologist shall harvest seeds or propagules from at least 50 percent of plants within areas of impact. Harvested seed or propagules shall be stored for reintroduction into temporarily disturbed portions of the Project site after construction is finished. A qualified biologist shall reintroduce the seed and/or propagules during the first autumn following completion of construction activities.

MM CUL-1: **Cultural Materials Discovered During Construction.** If evidence of any prehistoric or historic-era subsurface archaeological features or deposits are discovered during excavation or other earth-moving activities, all ground disturbing activity in the area of the discovery shall be halted until a qualified archaeologist can assess the significance of the find. Should an unanticipated discovery be made, avoidance is the preferred treatment (CEQA Guidelines, §15126.4(b)(3)(A)), but if the site cannot be avoided in place, then the site shall be further evaluated. Immediately upon discovery of a find, a qualified archaeologist shall evaluate the significance of the newly discovered site or unanticipated discovery along with attempted consultation with designated Native American representatives to provide proper management recommendations. A qualified archaeologist

shall follow accepted professional standards in recording any find, including submittal of the standard California Department of Parks and Recreation Primary Record forms (Form DPR 523) and location information to the NWIC. The consulting archaeologist shall also evaluate such resources for significance per California Register of Historical Resources eligibility criteria (PRC § 5024.1; Title 14 CCR § 4852). If the archaeologist determines that the find does contain temporally diagnostic materials and does not meet the California Register of Historical Resources standards of significance for cultural resources, construction may proceed. If the archaeologist determines that further information is needed to evaluate significance, the lead agency shall be notified, and a data recovery plan shall be prepared.

MM CUL-2: Worker Awareness Training. Prior to the start of construction, all field personnel shall receive worker's environmental awareness training on cultural resources. The training, which may be conducted with other environmental or safety trainings, will provide a description of cultural resources that may be encountered during construction and outline the steps to follow in the event that a discovery is made.

MM CUL-3: **Human Burials Encountered During Construction.** The treatment of human remains and any associated or unassociated funerary objects discovered during any ground-disturbing activity shall comply with applicable State law. Project personnel shall be alerted to the possibility of encountering human remains during Project implementation and apprised of the proper procedures to follow in the event they are found.

State law requires immediate notification of the County coroner upon discovery of human remains; in the event of the coroner's determination that the human remains are Native American, the NAHC would be notified, which would appoint a Most Likely Descendent (PRC Section 5097.98). The Most Likely Descendent would make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5[d]). The agreement shall take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. The PRC allows 48 hours to reach agreement on these matters. If the Most Likely Descendent and the other parties do not agree on the treatment and disposition of the remains and funerary objects, the SFBRWQCB shall follow PRC Section 5097.98(b), which states that "the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance".

MM GEO-1: Implement Geotechnical Report Design Measures. Prior to issuance of grading permits, the applicant shall incorporate all design specifications and recommendations contained within the site-specific soils report into relevant Project plans and specifications. These specifications shall pertain to, but are not limited to, building foundations, backfill of excavations, soil subgrade preparations, design of below-grade walls, and grading activities.

MM GEO-2: Procedures for Paleontological Resources Discovered During Construction. If any paleontological resources are encountered during ground disturbing or subsurface construction activities (e.g., trenching, grading), all construction activities within a 50-foot radius of the identified resource shall cease and the County shall immediately be notified. The applicant shall retain a qualified paleontologist (as approved by the County) to

evaluate the find and recommend appropriate treatment of the inadvertently discovered paleontological resource. The appropriate treatment of an inadvertently discovered paleontological resource shall be implemented to ensure that impacts to the resource are avoided, in conformance with SVP guidelines (SVP 1996, 2010).

MM HYD-1: Prepare and Implement a SWPPP. The construction contractor shall obtain NPDES permit coverage as required by the CGP (SWRCB Order WQ 2022-0057-DWQ). In accordance with the CGP requirements, the construction contractor shall electronically file the Permit Registration Documents, which include a Notice of Intent, a Risk Level determination, site drawings and maps, signed certification, SWPPP, applicable plans, calculations, and other supporting documentation for compliance with existing permitted Phase I or Phase II municipal separate storm sewer system post-construction requirements or the post-construction standards of the CGP, and other site-specific Permit Registration Documents that may be required. The SWPPP shall be prepared by a Qualified SWPPP Developer who has attended a training course sponsored or approved by the Water Board.

At a minimum the SWPPP shall identify BMPs for implementation during Project construction that may include routing stormwater away from exposed materials and excavation areas, hay bales, water bars, covers, sediment fences, sediment ponds, geotextile blankets, fiber rolls, temporary slope drains, mulching of exposed areas vehicle mats in wet areas, and other erosion-reducing features. The remediation contractor shall implement the BMPs identified in the SWPPP throughout the remediation work to help stabilize graded areas and reduce erosion and sedimentation. Structural construction BMPs shall be installed prior to initiation of ground disturbance.