CITY OF LATHROP
CITY COUNCIL SPECIAL MEETING
FRIDAY, MARCH 22, 2021, 6:00 P.M.
COUNCIL CHAMBER, CITY HALL
390 Towne Centre Drive, Lathrop, CA 95330

AGENDA

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the office of the City Clerk (209) 941-7230. Notification 48 hours prior to a meeting will enable the City to make reasonable arrangements to ensure accessibility to that meeting [28 CFR 35 .102.35.104 ADA Title II].

IMPORTANT NOTICE REGARDING THIS MEETING & COVID-19

On March 4, 2020, Governor Newsom proclaimed a State of Emergency in California as a result of the threat of COVID-19. On March 12, 2020, Governor Newsom issued Executive Order N-25-20, which allows Council Meetings to be conducted telephonically. On March 17, 2020, Governor Newsom issued Executive Order N-29-20, which allows for the public to participate in any meeting of the City Council by electronic means.

This meeting is being conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20, dated March 17, 2020, regarding the COVID-19 pandemic. In accordance with Executive Order N-29-20, the public may view the meeting on television and/or online. Council Meetings are live-streamed on Comcast Cable Channel 97, and on the City's website at https://www.ci.lathrop.ca.us/citycouncil/page/live-stream

This meeting will be available for public participation by video/teleconference via Cisco Webex at the following link:

- Event address for attendees (copy and paste link on browser):

  https://cityoflathrop.webex.com/cityoflathrop/onstage/g.php?MTID=e600416cff01572da209e9349cfc7c937

- Please register at the bottom of the page, at least thirty minutes (30 min.) prior to the meeting.

- If you wish to participate in public comment please call-in using WebEx audio (instructions are listed when you login to WebEx)

- For audio only: +1-408-418-9388

- Event Access code: 187 898 6236

In accordance with Executive Order N-25-20, guidance from the California Department of Public Health on gatherings, and to protect our employees and the public, remote public participation is allowed in the following ways:

- Public comment/questions will be accepted by email to City Clerk Teresa Vargas at Tvargas@ci.lathrop.ca.us or by calling (209) 941-7230
- Questions or comments must be submitted by 4:00 p.m., on the day of the meeting.
- During the meeting, those joining by teleconference (Cisco Webex link listed above), will be allowed to speak prior to the close of public comment on an item, and read into the record during public comment. If you are using this method, send a "WebEx chat" to the City Clerk (meeting host) indicating the item number you wish to speak on.

All meeting materials are available electronically via the City's website, under "Agendas / Minutes": https://www.ci.lathrop.ca.us/meetings

1. PRELIMINARY

1.1 CALL TO ORDER

1.2 ROLL CALL

1.3 PLEDGE OF ALLEGIANCE

2. CONSENT ITEMS

Items on the Consent Calendar are considered routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless the Mayor, Councilmember, or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately.

2.1 WAIVING OF READING OF ORDINANCES AND RESOLUTIONS
Waive the Reading in Full of Ordinances and Resolutions on Agenda and Adopt by Reading of Title Only, Unless Otherwise Requested by the Mayor or a Councilmember

2.2 APPROVE LATHROP CONSOLIDATED TREATMENT FACILITY SURFACE WATER DISCHARGE CAPITAL IMPROVEMENT PROJECT WW 20-17
Adopt Resolution Approving the Lathrop Consolidated Treatment Facility Surface Water Discharge Capital Improvement Project (CIP) WW 20-17

3. SCHEDULED ITEMS

3.1 APPROVE THE CREATION OF CAPITAL IMPROVEMENT PROJECT GG 21-11 - CREATE THE LATHROP POLICE DEPARTMENT, IMPLEMENT THE TRANSITION OF LAW ENFORCEMENT SERVICES FROM THE COUNTY TO THE CITY AND AUTHORIZE THE RELATED BUDGET AMENDMENT
Adopt Resolution Approving the Creation of Capital Improvement Project GG 21-11 – Create the Lathrop Police Department, Implement the Transition of Law Enforcement Services and Authorize the Related Budget Amendment

4. ADJOURNMENT

/Teresa Vargas/

Teresa Vargas, CMC
City Clerk

This meeting was called by a majority of the City Council per Government Code Section 54956.5. Members of the public interested in addressing the City Council during this Special Meeting may address the item(s), which have been described in the notice of this Special Meeting in accordance with Government Code Section 54954.3(a).

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ITEM 2.2

CITY MANAGER'S REPORT
MARCH 22, 2021 CITY COUNCIL SPECIAL MEETING

ITEM:	**APPROVE LATHROP CONSOLIDATED TREATMENT FACILITY SURFACE WATER DISCHARGE CAPITAL IMPROVEMENT PROJECT WW 20-17**
RECOMMENDATION:	**Adopt Resolution Approving the Lathrop Consolidated Treatment Facility Surface Water Discharge Capital Improvement Project (CIP) WW 20-17**

SUMMARY:

The Lathrop Consolidated Treatment Facility (CTF) Surface Water Discharge Capital Improvement Project WW 20-17 (Project) would establish a direct discharge of highly treated wastewater from the City of Lathrop's CTF to the San Joaquin River to facilitate development consistent with the City's General Plan.

On March 8, 2021, City Council certified the Final Environmental Impact Report (State Clearinghouse #2019110339) for the proposed Project, which evaluated the potential environmental impacts of the proposed Project and was completed in accordance with the California Environmental Quality Act (CEQA) requirements. On March 17, 2021, the Planning Commission adopted a resolution finding that the proposed Project is consistent with the General Plan for the City of Lathrop.

CEQA guidelines require that after certification of the Environmental Impact Report (EIR) the responsible agency officially approve the Project. Staff is requesting City Council adopt a resolution approving the Project.

BACKGROUND:

The Project would establish a direct discharge of highly treated wastewater from the City of Lathrop's CTF to the San Joaquin River to facilitate development consistent with the City's General Plan. The proposed Project would involve modifications to the CTF to remove chlorine from disinfected effluent to provide for discharge of dechlorinated effluent to the river, installation of effluent pipelines in City roadways, and construction of a new side-bank outfall along the river.

Pursuant to CEQA requirements, the City Council held a public hearing on March 8, 2021, and adopted a resolution certifying the Environmental Impact Report (State Clearinghouse #2019110339), including the Adoption of Findings of Fact, a Mitigation Monitoring and Reporting Program, and authorizing staff to file a Notice of Determination (NOD) for the Project. On March 17, 2021, the Planning Commission adopted a resolution finding that the proposed Project is consistent with the City's General Plan.

REASON FOR RECOMMENDATION:

CEQA guidelines require that after certification of the EIR the responsible agency officially approve the Project. Staff is requesting City Council adopt a resolution approving the Project.

FISCAL IMPACT:

There is no direct fiscal impact associated with the recommended action.

ATTACHMENTS:

A. Adopt Resolution Approving the Lathrop Consolidated Treatment Facility Surface Water Discharge Capital Improvement Project (CIP) WW 20-17

B. Final Environmental Impact Report for the Lathrop Consolidated Treatment Facility Surface Water Discharge Project WW 20-17, dated February 2021

C. Findings of Fact for the Lathrop Consolidated Treatment Facility Surface Water Discharge Project WW 20-17

D. Mitigation Monitoring and Reporting Program for the Lathrop Consolidated Treatment Facility Surface Water Discharge Project (SCH#2019110339), dated February 2021

E. Planning Commission Resolution No. 21-6, March 17, 2021

APPROVALS:

Michael King
Public Works Director — Date: 3/17/2021

Mark Meissner
Community Development Director — Date: 3/18/2021

Cari James
Finance & Administrative Services Director — Date: 3/18/2021

Salvador Navarrete
City Attorney — Date: 3-17-2021

Stephen J. Salvatore
City Manager — Date: 3.18.2021

RESOLUTION NO. 21 -

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP APPROVING THE LATHROP CONSOLIDATED TREATMENT FACILITY SURFACE WATER DISCHARGE CAPITAL IMPROVEMENT PROJECT (CIP) WW 20-17

WHEREAS, the Lathrop Consolidated Treatment Facility (CTF) Surface Water Discharge Capital Improvement Project WW 20-17 (Project) would establish a direct discharge of highly treated wastewater from the City of Lathrop's CTF to the San Joaquin River to facilitate development consistent with the City's General Plan; and

WHEREAS, the Project would involve modifications to the CTF to remove chlorine from disinfected effluent to provide for discharge of dechlorinated effluent to the river, installation of effluent pipelines in City roadways, and construction of a new side-bank outfall along the river; and

WHEREAS, pursuant to California Environmental Quality Act (CEQA) requirements, on March 8, 2021, the City Council held a public hearing, and adopted a resolution certifying the Environmental Impact Report (State Clearinghouse #2019110339), which is attached as Attachment "B" to the March 22, 2021 staff report and incorporated herein by this reference as though set forth in full, and adopted Findings of Fact and a Mitigation Monitoring Program for the proposed Project; and

WHEREAS, the City has evaluated the comments received from public agencies and persons who reviewed Draft EIR (State Clearinghouse #2019110339) and prepared responses to the comments received during the public review period; and

WHEREAS, conformance with the requirements of CEQA and the State CEQA Guidelines, and the City's Local CEQA Guidelines, the City has prepared, or caused to be prepared (a) Findings related to Draft EIR (State Clearinghouse #2019110339) which are attached as Attachment "C" to the March 22, 2021 staff report, and incorporated herein by this reference as though set forth in full, and (b) a Mitigation Monitoring and Reporting Program, which is attached as Attachment "D" to the March 22, 2021 staff report and incorporated herein by this reference as though set forth in full; and

WHEREAS, in conformance with Sections 15132 and 15362 (b) of the State CEQA Guidelines, the Final EIR (State Clearinghouse #2019110339) consists of the Draft EIR (State Clearinghouse #2019110339), all technical studies and memoranda prepared in connection with the Draft EIR, comments on the Draft EIR, and responses to those comments and any errata to the Draft EIR; and

WHEREAS, on March 17, 2021, the Planning Commission conducted a duly noticed public meeting and adopted a resolution finding that the proposed Project is consistent with the General Plan; and

WHEREAS, on March 22, 2021, the City Council conducted a duly noticed public special council meeting to consider the proposed Project at which members of the public were afforded an opportunity to comment upon the Project; and

WHEREAS, as contained herein, the City Council has endeavored in good faith to set forth the basis for its decision on the Project; and

WHEREAS, all the requirements of the Public Resources Code, the State CEQA Guidelines, and the City's Local CEQA Guidelines have been satisfied by the City in connection with the preparation of the Final EIR (State Clearinghouse #2019110339), which is sufficiently detailed so that all of the potentially significant environmental effects of the Project, as well as feasible mitigation measures, have been adequately evaluated; and

WHEREAS, the Final EIR (State Clearinghouse #2019110339), prepared in connection with the Project sufficiently analyzes the feasible alternatives and mitigation measures necessary to avoid or substantially lessen the Project's potentially significant environmental impacts; and

WHEREAS, the findings and conclusions made by the City Council in this Resolution are based on the oral and written evidence presented as well as the entirety of the administrative record for the Project, which is incorporated herein by this reference. The findings are not based solely on the information provided in this Resolution; and

WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed, and considered all of the information and data in the administrative record, including but not limited to the Draft EIR (State Clearinghouse #2019110339), Final EIR (State Clearinghouse #2019110339), Findings, and Mitigation Monitoring and Reporting Program, and all oral and written evidence presented to it during all meetings and hearings; and

WHEREAS, the Final EIR (State Clearinghouse #2019110339) reflects the independent judgment of the City Council and is deemed adequate for purposes of making decisions on the merits of the Project; and

WHEREAS, no comments made in the public hearing conducted on March 8, 2021 by the City Council and no additional information submitted to the City Council have produced substantial new information requiring recirculation of the Final EIR (State Clearinghouse #2019110339) or additional environmental review of the Project under State CEQA Guidelines section 15073.5; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Lathrop does hereby approve the Lathrop Consolidated Treatment Facility Surface Water Discharge Project WW 20-17.

SECTION 1. RECITALS. The City Council hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

SECTION 2. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. The City hereby certifies that (1) the EIR has been prepared in accordance with the requirements of CEQA (Pub. Res. Code § 21000 et seq.) and the State CEQA Guidelines (14 C.C.R. § 15000 et seq.), (2) the Final EIR was presented to the City and the City has reviewed and considered the information contained in the Final EIR prior to considering adoption of the Project, and (3) the Final EIR reflects the independent judgment and analysis of the City.

SECTION 3. The City Council hereby adopts the CEQA Findings attached as Attachment "C" to the March 22, 2021 staff report and incorporated herein by this reference as if fully set forth herein.

SECTION 4. The City Council hereby adopts, pursuant to Public Resources Code section 21081.6, the Mitigation Monitoring and Reporting Program contained in the Final EIR and attached as Attachment "D" to the March 22, 2021 staff report and incorporated herein by this reference. The City finds that the Mitigation Monitoring and Reporting Program is designed to ensure that, during the implementation of the Project, the City and any other responsible parties implement the components of the Project and comply with the mitigation measures identified in the Mitigation Monitoring and Reporting Program.

SECTION 5. The City Council hereby finds, based on consideration of the whole record before it, including the City's local CEQA Guidelines and Thresholds of Significance, and testimony heard at the March 8th public hearing and the March 22nd public special meeting, as follows:

1. Review Period: The City provided a 45-day public review period for the Draft Environmental Impact Report (EIR) as required under CEQA Guidelines Sections 15073 and 15105; and

2. Compliance with Law: The EIR was prepared, processed, and noticed in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*), the State CEQA Guidelines (14 California Code of Regulations Section 15000 *et seq.*) and the City's local CEQA Guidelines and Thresholds of Significance; and

3. Independent Judgment: The EIR reflects the independent judgment and analysis of the City Council and is deemed adequate for purposes of making decisions on the merits of the Project; and

SECTION 6. The City Council certified the Final EIR (State Clearinghouse No. 2019110339) on March 8, 2021.

SECTION 7. The documents and materials that constitute the record of proceedings on which these findings are based are located at City of Lathrop City Hall, 390 Towne Centre Drive, Lathrop, CA 95330. The Director of Public Works is the custodian of the record of proceedings.

SECTION 8. The Mayor shall sign this Resolution and the City Clerk shall attest and certify to the passage and adoption thereof.

SECTION 9. The City Council hereby directs staff to file a Notice of Determination with San Joaquin County within five (5) working days of final Project approval.

The foregoing resolution was passed and adopted this 22nd day of March 2021, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sonny Dhaliwal, Mayor

ATTEST:

Teresa Vargas, City Clerk

APPROVED AS TO FORM:

Salvador Navarrete, City Attorney

ATTACHMENT B

Final Environmental Impact Report for the

Lathrop Consolidated Treatment Facility Surface Water Discharge Project

State Clearinghouse No. 2019110339

Prepared for

City of Lathrop

February 2021

Final Environmental Impact Report for the

Lathrop Consolidated Treatment Facility Surface Water Discharge Project

State Clearinghouse No. 2019110339

Prepared for:

City of Lathrop
390 Towne Center Drive
Lathrop, CA 95330

Contact:

Michael King, PE
Public Works Director

Prepared by:

Ascent Environmental, Inc.
455 Capitol Mall, Suite 300
Sacramento, CA 95814

Contact:

Andrea L. Shephard, PhD
Project Manager

February 2021

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None

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LIST OF ABBREVIATIONS

2013 CTF IS/MND	*City of Lathrop Consolidated Treatment Facility Initial Study/Mitigated Negative Declaration*
ADWF	average dry weather flow
BMP	best management practices
CCR	California Code of Regulations
CCV	California Central Valley
Central Valley RWQCB	Central Valley Regional Water Quality Control Board
CEQA	California Environmental Quality Act
City	City of Lathrop
CTF	Consolidated Treatment Facility
CV	Central Valley
CWA	Clean Water Act
diesel PM	diesel particulate matter
Draft EIR	draft environmental impact report
DWQ	Division of Water Quality
EFH	Essential Fish Habitat
ESA	federal Endangered Species Act
Final EIR	final environmental impact report
HRA	health risk assessment
ITMM	Incidental Take Minimization Measure
LAA	land application area
lb/day	pounds per day
Manteca	City of Manteca
mgd	million gallons per day
NOAA-NMFS	National Oceanic and Atmospheric Administration, National Marine Fisheries Service
NO_X	oxides of nitrogen
NPDES	National Pollutant Discharge Elimination System
OEHHA	Office of Environmental Health Hazard Assessment
PM_{10}	respirable particulate matter with an aerodynamic diameter of 10 micrometers or less
RBI	Robertson-Bryan, Inc.
RD	Reclamation District
RWQCB	regional water quality control board
sDPS	southern distinct population segment
SJMSCP	*San Joaquin County Multi-Species Habitat Conservation and Open Space Plan*

SWPPP	storm water pollution prevention plan
TAC	toxic air contaminants
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service
WDR	Waste Discharge Requirement
WQC	Water Quality Certification
WQCF	Water Quality Control Facility

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1 INTRODUCTION

This final environmental impact report (Final EIR) has been prepared by the City of Lathrop (City), as lead agency, in accordance with the requirements of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines (California Code of Regulations [CCR] Section 15132). It contains comments received on the draft environmental impact report (Draft EIR) for the Lathrop Consolidated Treatment Facility (CTF) Surface Water Discharge Project (proposed project), responses to comments on the Draft EIR, and revisions to the Draft EIR based on the comments. In its entirety, the Final EIR consists of the Draft EIR and this document.

1.1 PURPOSE AND INTENDED USES OF THIS FINAL EIR

CEQA requires a lead agency that has prepared a Draft EIR to consult with and obtain comments from responsible and trustee agencies that have jurisdiction by law with respect to the project, and to provide the public with an opportunity to comment on the Draft EIR. The Final EIR is the mechanism for responding to these comments. This Final EIR has been prepared to respond to comments received on the Draft EIR, which are reproduced in this document, and to present corrections, revisions, and other clarifications to the Draft EIR made in response to these comments and as a result of the applicant's ongoing planning and design efforts. The Final EIR will be used to support the City of Lathrop's decision regarding whether to approve the proposed project.

This Final EIR will also be used by CEQA responsible and trustee agencies in support of decision making for project elements (e.g., permits or other approvals) over which they have jurisdiction. It may also be used by other state, regional, and local agencies that may have an interest in resources that could be affected by the project or that have jurisdiction over portions of the project.

Responsible, trustee, and interested agencies for the proposed project may include:

- California Department of Transportation,
- State Water Resources Control Board,
- California Department of Fish and Wildlife,
- California State Lands Commission,
- Central Valley Flood Protection Board,
- Central Valley Regional Water Quality Control Board,
- Delta Stewardship Council,
- Reclamation District 17, and
- San Joaquin Valley Air Pollution Control District.

1.2 PROJECT LOCATION

Elements of the proposed project would be constructed (1) at the City's existing CTF, located on 54 acres of City-owned land at 18800 Christopher Way, Lathrop, California; (2) along roadways in Lathrop between the CTF and the San Joaquin River, including Tesla Way, Harlan Road, and Inland Passage Way; and (3) along the right bank of the San Joaquin River at approximately river mile 55.8, approximately 0.7 mile downstream of the Interstate 5 (I-5) overcrossing (Figure 1-1).

Source: Data received from EKI and adapted by Ascent Environmental in 2020

Figure 1-1 Proposed Project Site

1.3 PROJECT BACKGROUND AND NEED

Wastewater from the City of Lathrop is treated at two separate facilities: the City of Manteca (Manteca) Water Quality Control Facility (WQCF) and the CTF. The Manteca WQCF treats most of the wastewater generated in the City east of I-5 and north of Louise Avenue, and the CTF treats domestic and a relatively small amount of commercial wastewater from the master planned communities in the western portion of the City and commercial and industrial wastewater from the Crossroads Commercial Center area, South Lathrop, and Lathrop Gateway Business Park (Figure 1-2). Treated wastewater effluent from the Manteca WQCF is primarily disposed of by discharge into the San Joaquin River at river mile 57. Treated wastewater effluent from the CTF is stored in aboveground lined ponds and used for public landscape and agricultural irrigation in the City or disposed of in a percolation basin (Figure 1-3).

The CTF produces treated effluent that meets the requirements for disinfected tertiary recycled water in accordance with Title 22 of the CCR (Title 22, Division 4, Chapter 3). CTF effluent disposal and reuse is regulated by the Central Valley Regional Water Quality Control Board (Central Valley RWQCB) under Waste Discharge Requirements (WDRs) and Master Recycling Permit Order No. R5-2016-0028-01. Under the WDRs, the City may store disinfected tertiary treated CTF effluent in aboveground lined storage ponds before pumping it to the distribution system for irrigation of agricultural land application areas (LAAs) and public landscape areas and disposal in a percolation basin (PB-1).

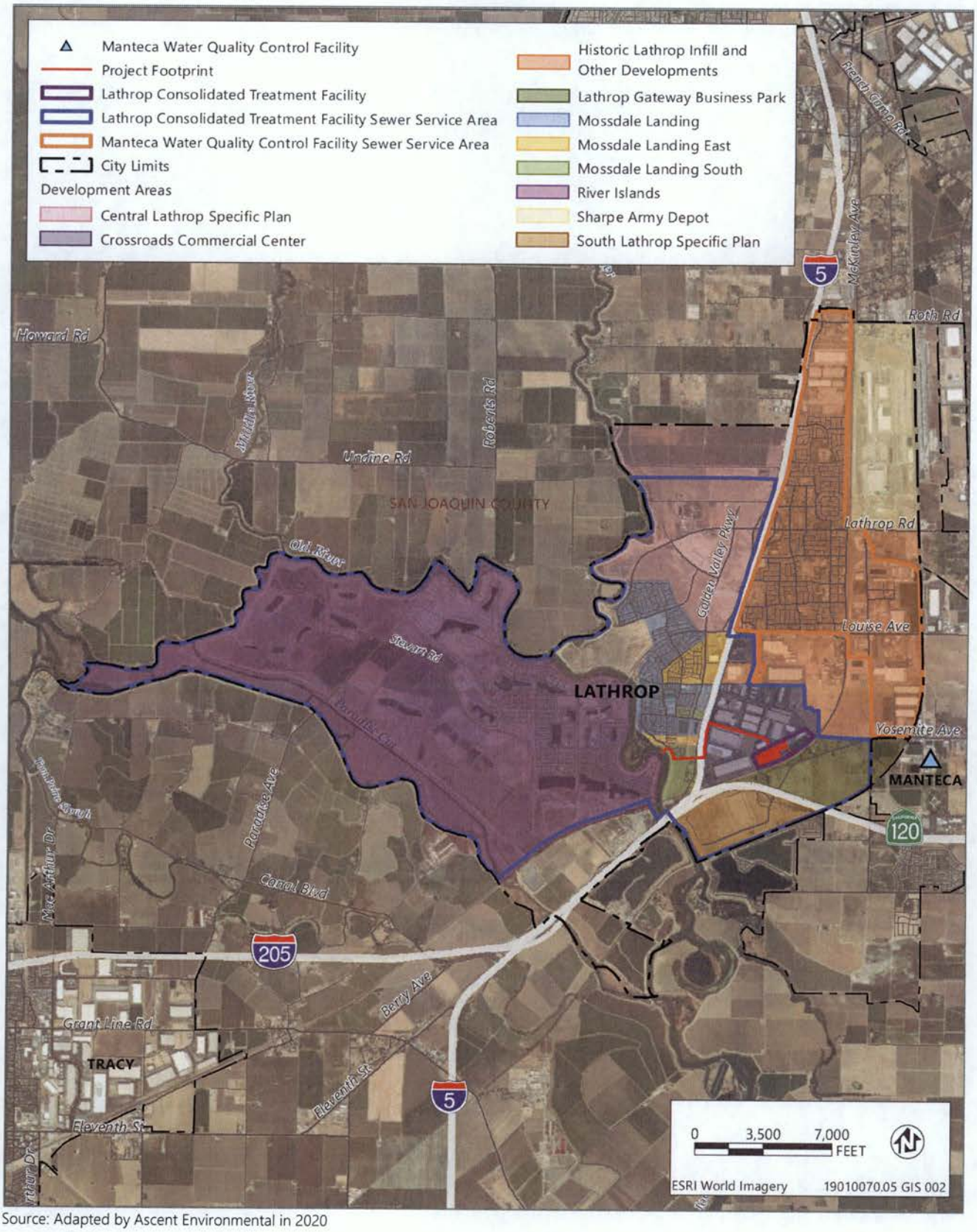
The CTF has an existing design treatment capacity of 2.5 million gallons per day (mgd) average dry weather flow (ADWF), and the recycled water system provides about 666 million gallons per year of disposal capacity, or approximately 1.69 mgd ADWF via application to nine agricultural LAAs and the various public landscaping areas throughout River Islands, and disposal in PB-1. Therefore, the CTF's maximum discharge capability is limited by the currently permitted disposal capacity of 1.69 mgd ADWF (Central Valley RWQCB 2019). Lathrop has the right to 14.7 percent of the existing Manteca WQCF capacity by contract with Manteca, which is 1.45 mgd. Manteca is reserving its remaining capacity to serve future development in its jurisdiction.

The Lathrop General Plan designates most of the agricultural LAAs and all the storage ponds except S5 and S16 for commercial, residential, or urban development (Figure 1-3) (EKI 2019a). Retaining this land for effluent storage and disposal would prevent development of the properties in accordance with the general plan land use designations. However, the influent ADWF rate at buildout in the CTF service area is projected to be 5.2 mgd (EKI 2019b) and effluent production at the CTF, during the low-irrigation/nonirrigation months of October through April in particular, is projected to exceed the City's available land-based effluent storage, reuse, and disposal capacity (RBI 2019:13–14).

Therefore, the City is proposing to establish a direct discharge of CTF-generated and dechlorinated disinfected, tertiary treated effluent to the San Joaquin River for use when generation of treated CTF effluent exceeds the capacity of the City's recycled water system to store and reuse treated effluent for landscape irrigation. Most of the CTF effluent discharged to the San Joaquin River would be discharged during winter, when irrigation demands are low and river flow is relatively high, and less would be discharged during the irrigation season, when reuse of CTF recycled water would be maximized for landscape irrigation. This approach would allow land designated in the Lathrop General Plan for urban uses to be developed in accordance with the plan.

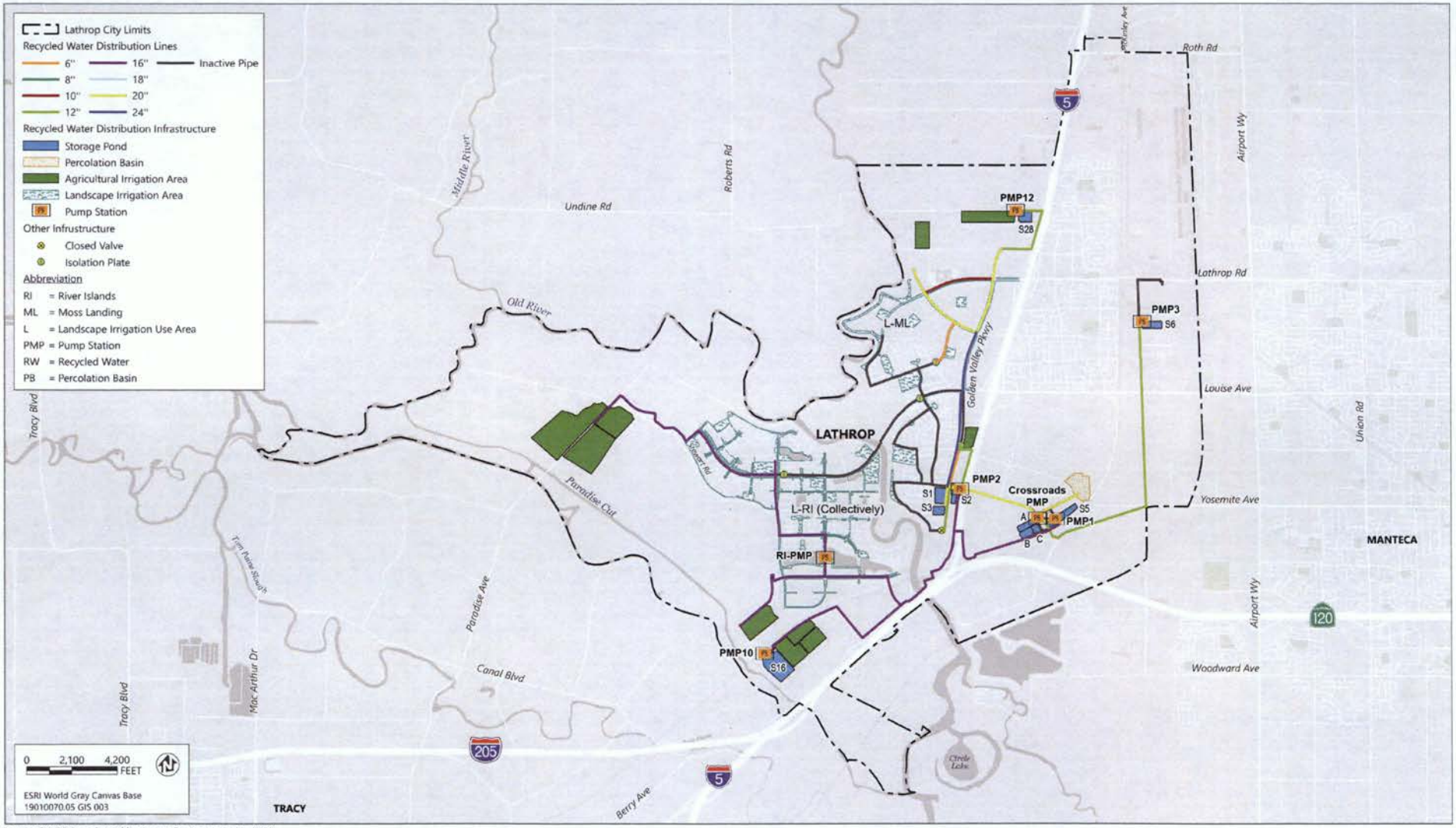
The City intends to obtain an initial National Pollutant Discharge Elimination System (NPDES) permit to discharge up to 2.5 mgd ADWF of dechlorinated treated effluent (current ADWF treatment capacity of the CTF) to the San Joaquin River. However, because CTF influent flows are currently projected to be 5.2 mgd at buildout based on the adopted General Plan and could be as high as 6 mgd based on proposed General Plan amendments, the analysis in the Draft EIR evaluates the environmental impacts of wastewater generation and discharge of up to 2.5 and 5.2 mgd ADWF to the San Joaquin River under the proposed project, and considers the incremental contribution of future cumulative wastewater generation and discharge to the San Joaquin River of up to 6 mgd ADWF.

The Draft EIR is tiered from, and incorporates by reference, the *City of Lathrop Consolidated Treatment Facility Initial Study/Mitigated Negative Declaration* (2013 CTF IS/MND) (City of Lathrop 2013), consistent with Section 15152 of the State CEQA Guidelines and Public Resources Code Section 21094. The 2013 CTF IS/MND provides project-level CEQA authorization for expansion of the CTF treatment capacity from 3.0 mgd to 6.0 mgd and program-level CEQA authorization for an additional 3.1 mgd of treatment capacity, for a total capacity of 9.1 mgd at the CTF. This EIR incorporates by reference the project-level environmental analysis of the CTF expansion, and applicable mitigation measures identified in the 2013 CTF IS/MND. The impacts of constructing and operating the proposed dechlorination system, effluent pipeline, and outfall are the focus of this EIR.



Source: Adapted by Ascent Environmental in 2020

Figure 1-2 Lathrop CTF and Manteca WQCF Service Areas in the City of Lathrop



Source: EKI 2019a, adapted by Ascent Environmental in 2020

Figure 1-3 Lathrop Recycled Water System Infrastructure

1.4 PROJECT OBJECTIVES

The proposed project has the following objectives:

- Provide for planned City buildout and development based on the City's General Plan by providing effluent discharge to the San Joaquin River.
- Provide efficient and cost-effective wastewater services through buildout of the City.
- Maximize use of recycled water in the City presently and in the future.

1.5 SUMMARY DESCRIPTION OF THE PROJECT

The proposed project involves modifications to the CTF, installation of effluent pipelines, and construction of an effluent pipeline levee crossing and outfall structure (Figure 1-1). These elements of the proposed project are summarized below and described in detail in Chapter 2 of the Draft EIR.

1.5.1 CTF modifications (to Support 2.5-mgd Surface Water Discharge)

The CTF uses chlorine to provide disinfection of treated effluent for discharge to the LAAs. However, effluent proposed to be discharged to the San Joaquin River would require dechlorination before discharge to be compliant with an NPDES permit and to avoid adverse effects on aquatic species. Therefore, to allow continued distribution of chlorinated CTF effluent for recycled water use, as well as discharge of dechlorinated CTF effluent to the San Joaquin River when effluent flows exceed demand for recycled water, the City is proposing to implement the following wastewater treatment system modifications:

- use of sodium bisulfite for dechlorination;
- use of Storage Ponds A, B, and C to cool final effluent before river discharge, as needed;
- installation of new connections between Pond S5 and PMP-1 and the Crossroads Pump Station;
- installation of new pipelines, valves, monitoring equipment, and controls at the Crossroads Pump Station; and
- connection of the Crossroads Pump Station to a new dedicated effluent discharge pipeline to pump dechlorinated effluent to the river.

1.5.2 Effluent Discharge Pipeline (to Support 2.5-mgd and Buildout Surface Water Discharge)

The proposed project requires a dedicated effluent discharge pipeline connecting the Crossroads Pump Station at the CTF to a new outfall along the San Joaquin River. The City would install a pipeline sufficiently sized to convey and discharge effluent associated with general plan buildout (see Figure 1-1), including the following modifications:

- installation of a new effluent discharge pipeline from the Crossroads Pump Station at the CTF along Tesla Way to its intersection with Harlan Road and continuing south along Harlan Road to approximately 30 feet north of the turnaround adjacent to I-5, which would require crossing a rail spur line along Tesla Way and capping an existing pipeline adjacent to Murphy Parkway upstream of its intersection with Tesla Way;
- reuse of an existing steel pipe crossing under the freeway from Harlan Road to Sadler Oak Drive and continuing along Sadler Oak Drive to its intersection with Inland Passage Way;
- installation of new effluent discharge pipeline from Sadler Oak Drive north along Inland Passage Way and then continuing to the toe of the Reclamation District (RD) 17 levee; and

- installation of a new valve system to allow manual diversion of stagnant water in the discharge pipeline to the Mossdale sewer system for return to the CTF headworks following periods of no discharge to the river.

1.5.3 Levee Crossing and Outfall Structure (to Support 2.5-mgd and Buildout Surface Water Discharge)

The proposed CTF outfall would be located along the right bank of the San Joaquin River on the waterside of an existing State Plan of Flood Control and Federal Flood Control Project levee maintained by RD 17. Construction of the proposed effluent pipeline across the levee and the new side-bank outfall would involve the following:

- installation of a new welded steel pressurized pipe in an approximately 16-foot-wide trench excavated through the levee seepage berm and levee prism above the 200-year water surface elevation from the levee toe to the proposed outfall on the waterside of the levee;
- extension of the new pipe to the river, and construction of a new concrete-encased outfall structure below the mean lower low water level and above the channel bed of the San Joaquin River at approximately river mile 55.8 to create a new side-bank outfall; the elevation of the pipe at the outfall location would be set to ensure discharge of effluent sufficiently low to achieve adequate mixing with river water such that an increase in ambient surface water temperature of no more than 4 degrees Fahrenheit would be observed at any time during the year; and
- installation of erosion protection material (e.g., articulated concrete block, riprap) above and below the headwall and extending upstream and downstream of the outfall to prevent scour.

1.5.4 Project Operations

Operation of the proposed project would use the newly automated CTF system to control the effluent river discharge and maximize reuse using the recycled water distribution system. In summer, during peak demand for recycled water, chlorinated effluent would flow by gravity to Pond S5 and be used to supply the recycled water system. In late summer or early fall, when recycled water demands decrease, the Crossroads Pump Station would be activated as needed to discharge dechlorinated effluent in excess of recycled water demand to the river, which would allow water levels in the ponds to be lowered. During winter, when CTF inflow generally exceeds irrigation demand and river water temperatures are lower, most of the effluent would be dechlorinated, held temporarily in Ponds A, B, and C, or a subset of these, as needed, to provide effluent cooling, and then discharged via the Crossroads Pump Station to the river through the new effluent discharge pipe network. In spring, when minimum pond level setpoints are raised to maximize recycled water storage and reuse again, discharge of dechlorinated effluent to the river would be reduced, and chlorinated effluent would be directed from the chlorine contact basins to fill storage ponds in the recycled water system.

Implementing the proposed project would not require any changes to staffing at the CTF or to power, telecommunications, gas, water supply, recycled water distribution, or sewer infrastructure in the near term.

1.6 MAJOR CONCLUSIONS OF THE ENVIRONMENTAL ANALYSIS

As summarized in Table ES-1, "Summary of Environmental Effects of the Alternatives Relative to the Proposed Project," in the "Executive Summary" chapter of the Draft EIR, construction and/or operation of the proposed project would have the potential to cause the following significant but mitigable environmental impacts. After mitigation, none of the impacts would remain significant, and there would be no significant and unavoidable impacts from the proposed project:

1.6.1 Air Quality

- Impact 3.2-1: Result in Short-Term Emissions of Criteria Air Pollutants and Precursors

1.6.2 Terrestrial Biological Resources

- Impact 3.3-1: Cause Disturbance to or Loss of Valley Elderberry Longhorn Beetle
- Impact 3.3-2: Cause Disturbance to or Loss of Western Pond Turtle
- Impact 3.3-3: Cause Disturbance to or Loss of Swainson's Hawk, White-Tailed Kite, Cooper's Hawk, Sharp-Shinned Hawk, and Other Nesting Raptors
- Impact 3.3-4: Cause Disturbance to or Loss of Loggerhead Shrike, California Horned Lark, and Other Nesting Birds
- Impact 3.3-5: Cause Disturbance to or Loss of Riparian Brush Rabbit
- Impact 3.3-6: Cause Disturbance and Loss of Waters of the United States and State
- Impact 3.3-7: Cause Disturbance to or Loss of Riparian Habitat

1.6.3 Aquatic Biological Resources

- Impact 3.4-2: Cause Direct Fish Injury or Mortality during Construction Resulting in Impacts on Fish Populations

1.6.4 Cultural, Tribal Cultural, and Paleontological Resources

- Impact 3.5-2: Cause a Substantial Adverse Change in the Significance of Archaeological Resources
- Impact 3.5-3: Cause a Substantial Adverse Change in the Significance of a Tribal Cultural Resource
- Impact 3.5-4: Disturb Human Remains

1.6.5 Hazards and Hazardous Materials

- Impact 3.8-1: Create a Significant Health Hazard from the Routine Transport, Use, or Disposal of Hazardous Materials, Including Reasonably Foreseeable Upset or Accidents

1.7 CEQA PUBLIC REVIEW PROCESS

On October 21, 2020, the City released the Draft EIR for a 45-day public review and comment period. The Draft EIR was submitted to the State Clearinghouse for distribution to reviewing agencies, it was posted on the City's website (https://www.ci.lathrop.ca.us/com-dev/page/public-review-documents), and a computer disk or thumb drive containing a copy of the document was made available upon request. A notice of availability of the Draft EIR was published in the Manteca Bulletin and distributed by the City to a project-specific mailing list.

A public meeting was held on November 17, 2020, from 5:30 pm. to 6:30 p.m., to receive input from agencies and the public on the Draft EIR. The meeting was recorded and made available on the City's website at https://www.ci.lathrop.ca.us/meetings. No one from the public provided oral comments at the public meeting.

As a result of these notification efforts, written comments were received from one federal agency and several state and regional agencies on the content of the Draft EIR. Chapter 2, "Responses to Comments," of this Final EIR identifies these commenting parties, their respective comments, and responses to these comments. None of the comments received, or the responses provided, constitute "significant new information" by CEQA standards (State CEQA Guidelines CCR Section 15088.5).

1.8 ORGANIZATION OF THIS FINAL EIR

This Final EIR is organized as follows:

- **Chapter 1, "Introduction,"** describes the purpose of this Final EIR, summarizes the proposed project and the major conclusions of the Draft EIR, provides an overview of the CEQA public review process, and describes the content of the Final EIR.
- **Chapter 2, "Responses to Comments,"** contains a list of all parties who submitted comments on the Draft EIR during the public review period, copies of the comment letters received, and responses to the comments.
- **Chapter 3, "Revisions to the Draft EIR,"** presents revisions to the Draft EIR text made in response to comments or to amplify, clarify, or otherwise make minor modifications or corrections. Changes in the text are signified by ~~strikeouts~~ where text is removed and by <u>underline</u> where text is added.
- **Chapter 4, "References,"** identifies the documents used as sources for the analysis.
- **Chapter 5, "List of Preparers,"** identifies the lead agency contacts, as well as the preparers of this Final EIR.

2 RESPONSES TO COMMENTS

This chapter contains comment letters received during the public review period for the Draft EIR, which concluded on December 4, 2020. No oral comments were provided during the November 17, 2020, public meeting. In conformance with Section 15088(a) of the State CEQA Guidelines, written responses were prepared addressing comments on environmental issues received from reviewers of the Draft EIR.

2.1 LIST OF COMMENTERS ON THE DRAFT EIR

A total of eight letters containing comments on the Draft EIR were received from public agencies. No comments were received from members of the public or from nongovernmental organizations. Table 2-1 presents the list of commenters, including the numerical designation for each comment letter received, the author of the comment letter, and the date of the comment letter.

Table 2-1 List of Commenters

Letter Number	Commenting Agency	Date
1	San Joaquin Council of Governments (SJCOG) Laurel Boyd, Associate Habitat Planner	November 9, 2020
2	Central Valley Regional Water Quality Control Board (Central Valley RWQCB) Nicholas White, Water Resource Control Engineer	November 16, 2020
3	Delta Stewardship Council (DSC) Jeff Henderson, AICP, Deputy Executive Officer	December 1, 2020
4	State Water Resources Control Board (SWRCB) Cedric Irving, Environmental Scientist	December 1, 2020
5	California Department of Transportation (Caltrans) Tom Dumas, Chief	December 2, 2020
6	California State Lands Commission (CSLC) Nicole Dobroski, Chief	December 3, 2020
7	National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA-NMFS) Erin Strange, San Joaquin River Branch Chief	December 4, 2020
8	San Joaquin Valley Air Pollution Control District (SJVAPCD) Arnaud Marjollet, Director of Permit Services	December 10, 2020

2.2 COMMENTS AND RESPONSES

Written comments received on the Draft EIR and the responses to those comments are provided below. The comment letters are reproduced in their entirety and are followed by the response(s). Where a commenter has provided multiple comments, each comment is indicated by a line bracket and an identifying number in the margin of the comment letter corresponding to the response.

S J C O G, Inc.

535 Last Weber Avenue • Stockton, CA 95202 • (209) 235-0600 • FAX (209) 235-0438

San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)

Letter 1

SJMSCP RESPONSE TO LOCAL JURISDICTION (RTLJ)
ADVISORY AGENCY NOTICE TO SJCOG, Inc.

To: Michael King, City of Lathrop, Public Works

From: Laurel Boyd, SJCOG, Inc.

Date: November 9, 2020

-Local Jurisdiction Project Title: NOA of a DEIR for the Lathrop CTF Surface Water Discharge Project

Assessor Parcel Number(s): 198-210-14, -19, -21

Local Jurisdiction Project Number: State Clearinghouse# 2019110339

Total Acres to be converted from Open Space Use: Unknown

Habitat Types to be Disturbed: Urban, Agriculture, Multi-Purpose Open Space and Natural Habitat Land

Species Impact Findings: Findings to be determined by SJMSCP biologist.

Dear Mr. King:

SJCOG, Inc. has reviewed the Notice of Availability of a Draft Environmental Report for the Lathrop CTF Surface Water Discharge Project. This project consists of establishing a direct discharge of highly treated wastewater from its CTF to the San Joaquin River. Currently, recycled water generated at the CTF is stored in ponds and used for urban and agricultural irrigation. With implementation of the proposed project, the majority of CTF effluent would be discharged to the San Joaquin River during the winter, when irrigation demands are low and river flow is relatively high, and less would be discharged during the irrigation season, when reuse of CTF recycled water would be maximized for landscape irrigation. The approach would allow existing storage ponds and land application areas designated for urban uses to be developed in accordance with the City of Lathrop General Plan. The project site is located east and west of Interstate 5 and north of State Route 120, Lathrop. 1-1

The City of Lathrop is a signatory to San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). Participation in the SJMSCP satisfies requirements of both the state and federal endangered species acts, and ensures that the impacts are mitigated below a level of significance in compliance with the California Environmental Quality Act (CEQA). The LOCAL JURISDICTION retains responsibility for ensuring that the appropriate Incidental Take Minimization Measure are properly implemented and monitored and that appropriate fees are paid in compliance with the SJMSCP. Although participation in the SJMSCP is voluntary, Local Jurisdiction/Lead Agencies should be aware that if project applicants choose against participating in the SJMSCP, they will be required to provide alternative mitigation in an amount and kind equal to that provided in the SJMSCP. 1-2

This Project is subject to the SJMSCP. This can be up to a 30 day process and it is recommended that the project applicant contact SJMSCP staff as early as possible. It is also recommended that the project applicant obtain an information package. http://www.sjcog.org 1-3

Please contact SJMSCP staff regarding completing the following steps to satisfy SJMSCP requirements:

- Schedule a SJMSCP Biologist to perform a pre-construction survey ***prior to any ground disturbance***
- SJMSCP Incidental take Minimization Measures and mitigation requirement:

1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.
2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
   a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
   b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
   c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or

1-4

2 | SJCOG, Inc.

d. Purchase approved mitigation bank credits.

4 Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:

a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
c. Purchase approved mitigation bank credits.

Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called

1-4 cont.

- Receive your Certificate of Payment and release the required permit

It should be noted that if this project has any potential impacts to waters of the United States [pursuant to Section 404 Clean Water Act], it would require the project to seek voluntary coverage through the unmapped process under the SJMSCP which could take up to 90 days. It may be prudent to obtain a preliminary wetlands map from a qualified consultant. If waters of the United States are confirmed on the project site, the Corps and the Regional Water Quality Control Board (RWQCB) would have regulatory authority over those mapped areas [pursuant to Section 404 and 401 of the Clean Water Act respectively] and permits would be required from each of these resource agencies prior to grading the project site.

1-5

If you have any questions, please call (209) 235-0600.

3 | S J C O G , I n c .

S J C O G, Inc.

San Joaquin County Multi-Species Habitat Conservation & Open Space Plan

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0600 • FAX (209) 235-0438

SJMSCP HOLD

TO: Local Jurisdiction: Community Development Department, Planning Department, Building Department, Engineering Department, Survey Department, Transportation Department, Other: _____

FROM: Laurel Boyd, SJCOG, Inc.

DO NOT AUTHORIZE SITE DISTURBANCE
DO NOT ISSUE A BUILDING PERMIT
DO NOT ISSUE _____ FOR THIS PROJECT

The landowner/developer for this site has requested coverage pursuant to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). In accordance with that agreement, the Applicant has agreed to:

1) SJMSCP Incidental Take Minimization Measures and mitigation requirement:

1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.
2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
   a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
   b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
   c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
   d. Purchase approved mitigation bank credits.
4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:
   a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
   b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
   c. Purchase approved mitigation bank credits.

Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.

1-6

Project Title: NOA of a DEIR for the Lathrop CTF Surface Water Discharge Project

Assessor Parcel #s: Multiple

T _____, R_____, Section(s): _____

Local Jurisdiction Contact: Michael King

The LOCAL JURISDICTION retains responsibility for ensuring that the appropriate Incidental Take Minimization Measures are properly implemented and monitored and that appropriate fees are paid in compliance with the SJMSCP.

Letter 1 San Joaquin Council of Governments

Laurel Boyd, Associate Habitat Planner
November 9, 2020

1-1 The comment provides introductory remarks summarizing the elements of the proposed project. This comment is acknowledged. Because no specific comment on the adequacy, accuracy, or completeness of the Draft EIR is provided, no further response is necessary.

1-2 The comment describes the *San Joaquin County Multi-Species Habitat Conservation and Open Space Plan* (SJMSCP) and its purpose and discusses the responsibilities of the local jurisdiction with regard to participation in the SJMSCP.

The City is an SJMSCP signatory and would participate in the plan to obtain federal Endangered Species Act (ESA) take coverage for impacts of the proposed project on valley elderberry longhorn beetle, as described in Mitigation Measure 3.3-1a: Seek Coverage under the SJMSCP. In addition, the City will implement Mitigation Measure 3.3-1b: Conduct Survey for and Protect Valley Elderberry Longhorn Beetle; Mitigation Measure 3.3-2: Conduct Western Pond Turtle Preconstruction Survey and Relocation; Mitigation Measure 3.3-3: Protect Swainson's Hawk, White-Tailed Kite, Cooper's Hawk, Sharp-Shinned Hawk, and Other Nesting Raptors; Mitigation Measure 3.3-4: Protect Loggerhead Shrike, California Horned Lark, and Other Nesting Birds; and Mitigation Measure 3.3-7: Minimize and Compensate for the Loss of Riparian Habitat. These mitigation measures are consistent with the Incidental Take Minimization Measures (ITMMs) provided in the SJMSCP for these species.

The project is located within 300 feet of occupied habitat for riparian brush rabbit; however, because the SJMSCP does not provide a mitigation mechanism for loss of potential habitat for riparian brush rabbit, the City will not use the SJMSCP to obtain take coverage for this species. However, consultation with the U.S. Fish and Wildlife Service (USFWS) under the ESA and with the California Department of Fish and Wildlife will occur to obtain the required incidental take authorizations for this species. In addition, the City will implement Mitigation Measure 3.3-5: Protect Riparian Brush Rabbit to avoid take of individual riparian brush rabbits by the project.

The SJMSCP does not cover all fish species potentially affected by the project; therefore, consultation with USFWS and NOAA-NMFS will also occur to obtain the required incidental take authorizations for Delta smelt, green sturgeon, Central Valley (CV) steelhead, CV spring-run chinook salmon, and Sacramento River winter-run chinook salmon. The City will also implement Mitigation Measure 3.4-2: Conduct Fish Rescue and Relocation Operation to avoid and minimize the impact of the project on these and other special-status fish species.

The City acknowledges that as the local planning jurisdiction, it is responsible for ensuring that appropriate ITMMs are properly implemented and monitored and that the appropriate fees are paid in compliance with the SJMSCP. The City would collect the appropriate mitigation fees on a per-acre basis, as established by the Joint Powers Authority according to the measures needed to mitigate project impacts on the various habitat and biological resources.

1-3 The comment notes that the proposed project is subject to the SJMSCP and that the SJMSCP process can take up to 30 days, so it recommends that the project applicant contact SJMSCP staff as soon as possible. The comment also recommends that the applicant obtain an information package. The City is an SJMSCP signatory, and the proposed project will participate in the SJMSCP, as discussed in the response to comment 1-2. The City will contact SJMSCP staff as soon as possible with regard to the project's participation in the SJMSCP.

1-4 The comment outlines the process by which the proposed project would receive ITMM approval pursuant to the SJMSCP. This comment is acknowledged, and the City will contact SJMSCP staff before project implementation to discuss project participation in the SJMSCP, implementation of mitigation measures contained in the EIR that are consistent with SJMSCP ITMMs (as discussed in the response to comment 1-2), and any additional ITMMs that may be required. The City will collect and pay the appropriate mitigation fees to SJCOG as needed to mitigate project impacts on habitat.

1-5 The comment notes that if the proposed project would have potential impacts on waters of the United States, it would be required to seek voluntary coverage through the unmapped process under the SJMSCP, which could take up to 90 days. The comment further notes that it may be prudent to have a preliminary wetlands map produced for the proposed project and that if waters are confirmed on the project site, the U.S. Army Corps of Engineers (USACE) and regional water quality control board (RWQCB) would have jurisdiction of those mapped areas, and permits from those agencies would be required. The comment also provides a contact number for questions. Ascent Environmental, on behalf of the City, submitted a preliminary aquatic resources delineation report to USACE. As delineated in the report, Ascent Environmental concludes that all waters on the project site are both waters of the state and waters of the United States (i.e., there are no isolated waters on the project site). USACE has not yet verified the preliminary aquatic resources delineation. However, based on the preliminary aquatic resources delineation, the City has submitted an application for a 404 permit to USACE and a 401 Water Quality Certification (WQC) to the RWQCB. Because no specific comment on the adequacy, accuracy, or completeness of the Draft EIR is provided, no further response is necessary.

1-6 The comment is an SJMSCP Hold form letter, which restates the requirements for ITMMs that are found in comment 1-4, above. The comment also provides the project title and notes that it is the responsibility of the local jurisdiction to ensure that the appropriate ITMMs are properly implemented and monitored and that the appropriate fees are paid in compliance with the SJMSCP. Refer to the responses to comments 1-2 and 1-4 above. Because no specific comment on the adequacy, accuracy, or completeness of the Draft EIR is provided, no further response is necessary.

Letter 2

Central Valley Regional Water Quality Control Board

16 November 2020

Michael King
Director of Public Works
390 Towne Center Drive
Lathrop, CA 95330

COMMENTS TO REQUEST FOR REVIEW FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, LATHROP CONSOLIDATED TREATMENT FACILITY (CTF) SURFACE WATER DISCHARGE PROJECT, SCH#2019110339, SAN JOAQUIN COUNTY

Pursuant to the City of Lathrop Community Development Department's 21 October 2020 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Draft Environmental Impact Report* for the Lathrop Consolidated Treatment Facility (CTF) Surface Water Discharge Project, located in San Joaquin County. 2-1

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38. 2-2

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by

the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website: http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

2-2 cont.

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at: https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201805.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

2-3

II. Permitting Requirements

NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/help/permit/

2-4

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land

2-5

Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at: http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

2-5 cont.

Industrial Storm Water General Permit
Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ. For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at: http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml

2-6

Clean Water Act Section 404 Permit
If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

2-7

Clean Water Act Section 401 Permit – Water Quality Certification
If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

2-8

Waste Discharge Requirements – Discharges to Waters of the State
If USACE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed

2-9

project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at:https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at:
https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

2-9 cont.

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

2-10

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf

If you have questions regarding these comments, please contact me at (916) 464-4856 or Nicholas.White@waterboards.ca.gov.

2-11

Nicholas White
Water Resource Control Engineer

Letter 2 Central Valley Regional Water Quality Control Board

Nicholas White, Water Resource Control Engineer
November 16, 2020

2-1 The comment provides an introduction to the letter and provides background on the commenter's authority to protect the quality of surface water and groundwater of the state. No specific comment on the adequacy, accuracy, or completeness of the Draft EIR is provided; therefore, no further response is necessary.

2-2 The comment provides background on the Basin Plan for the Central Valley region. No specific comment on the adequacy, accuracy, or completeness of the Draft EIR is provided; therefore, no further response is necessary.

2-3 The comment provides information regarding "antidegradation considerations," including the Basin Plan's policy and analysis requirements for National Pollutant Discharge Elimination System (NPDES) and Waste Discharge Requirement (WDR) permitting. Project impacts on groundwater and surface water quality are addressed in Section 3.9, "Hydrology and Water Quality," of the Draft EIR. Impacts were determined to be less than significant. The Draft EIR adequately analyzes the potential impacts on groundwater and surface water quality and does not conflict with these requirements. The City submitted a report of waste discharge, which contains the antidegradation analysis in accordance with NPDES requirements and the SWRCB's antidegradation implementation policy.

2-4 The comment states that if the proposed project were to discharge waste that could affect the quality of surface waters of the state, it would require coverage under an NPDES permit, and a complete report of waste discharge must be submitted to support an NPDES permit application. The City has submitted a report of waste discharge in support of an NPDES permit application.

2-5 The comment notes that all land-disturbing construction projects that would involve disturbance of 1 or more acres of soil, or projects that disturb less than 1 acre but are part of a larger common plan of development that in total disturbs 1 or more acres, are required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction and Land Disturbance Activities (Construction General Permit Order 2009-0009-Division of Water Quality [DWQ]). Construction activities associated with the proposed project would disturb more than 1 acre of soils, exposing the project site to possible wind and water erosion. Pages 3.9-13 and 3.9-14 in Section 3.9, "Hydrology and Water Quality," of the Draft EIR state that the City and/or its construction contractor would be required to implement construction best management practices (BMPs) to reduce the potential for pollutant discharges to surface water and groundwater consistent with the NPDES permit required by the Central Valley RWQCB.

2-6 The comment states that stormwater discharges associated with industrial sites must comply with Industrial Storm Water General Permit Order No. 2014-0057-DWQ. The Lathrop CTF is a municipal site and is not covered under the Industrial Storm Water General Permit.

2-7 The comment summarizes the requirements to obtain a permit pursuant to Section 404 of the Clean Water Act (CWA). The City has applied for a Section 404 permit from the USACE.

2-8 The comment summarizes the requirements to obtain a CWA Section 401 WQC. The City has applied for a 401 WQC from the Central Valley RWQCB.

2-9 The comment summarizes WDR requirements for discharges to waters of the state. As part of the Section 404 permit process, Ascent Environmental, on behalf of the City, submitted a preliminary aquatic resources delineation report to USACE. As delineated in the report, Ascent Environmental concludes that there are no isolated waters (i.e., all waters of the state are waters of the United States) on the project site. USACE has not yet verified the preliminary aquatic resources delineation. The preliminary jurisdictional delineation informed the Draft EIR's analysis of impacts to wetlands and waters of the United States and waters of the state.

2-10 The comment summarizes requirements for a dewatering permit. As described on page 2-24 under Section 2.7.3, "Construction Methods and Labor Force," in Chapter 2, "Project Description," of the Draft EIR, the project proposes to dewater the area of the river behind a temporary cofferdam for work in the river. Any water remaining inside the cofferdam would be pumped back over the levee into temporary ponds or Baker tanks on the landside of the levee for settling, and then the supernatant (clarified river water overlying material that has settled out) would be discharged to the river or pumped into the City storm drain system depending on water quality requirements. In the unlikely event that temporary construction dewatering would discharge groundwater to land from excavation activities or dewatering of underground utility vaults, the City or its contractor would apply for coverage under the appropriate general order or waiver.

2-11 The comment provides a closing to the letter and contact information. No specific comment on the adequacy, accuracy, or completeness of the Draft EIR is provided; therefore, no further response is necessary.

Delta Stewardship Council
A CALIFORNIA STATE AGENCY

Letter 3

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December 1, 2020

Michael King, P.E.
Director of Public Works
City of Lathrop
390 Towne Center Drive
Lathrop, CA 95330

Sent via email: mking@ci.lathrop.ca.us

RE: Comments on Draft Environmental Impact Report for the Lathrop Consolidated Treatment Facility Surface Water Discharge Project (State Clearing House No. 2019110339)

Dear Michael King:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the City of Lathrop (City) Consolidated Treatment Facility Surface Water Discharge Project (Project). The Delta Stewardship Council (Council) recognizes the objective(s) of the Project, as described in the DEIR, to: provide for planned City buildout and development based on the City's General Plan by providing effluent discharge to the San Joaquin River, provide efficient and cost-effective wastewater services through buildout of the City, and maximize use of recycled water in the City presently and in the future.

The Council is an independent State of California agency established by the Sacramento-San Joaquin Delta Reform Act of 2009 (SBX7 1; Delta Reform Act). The Council is charged with furthering California's coequal goals for the Delta through the adoption and implementation of the Delta Plan, regulatory portions of which became effective on September 1, 2013. 3-1

As stated in the Delta Reform Act, the State has "'coequal goals' (which) means two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place" (Water Code section 85054).

Through the Delta Reform Act, the Council was granted specific regulatory and appellate authority over certain actions of State or local public agencies that take place in whole or in part in the Delta. To do this, the Delta Plan contains a set of regulatory policies with which

City of Lathrop
Lathrop Consolidated Treatment Facility Surface Water Discharge Project
December 1, 2020
Page 2

State and local agencies are required to comply. The Delta Reform Act specifically established a certification process for compliance with the Delta Plan. This means that State and local agencies that propose to carry out, approve, or fund a qualifying action in whole or in part in the Delta, called a "covered action," must certify that this covered action is consistent with the Delta Plan and must file a certificate of consistency with the Council that includes detailed findings. 3-1 cont.

For the purposes of compliance with both the Delta Reform Act and California Environmental Quality Act (CEQA), we offer the following comments for your consideration in preparation of the Final Environmental Impact Report (FEIR).

Comments on the DEIR

The following comments address actions outlined in the DEIR relevant to the Delta Plan. 3-2

Regulatory Setting: The FEIR should identify Delta Plan policies in the applicable regulatory setting discussions for each topic in the FEIR to which they apply.

On page 3.3-5, the DEIR describes the various amendments to the Delta Plan. This section should also identify that on March 26, 2020 the Council rescinded the April 2018 amendment to Delta Plan Policy RR P1 which set new priorities for State investment in Delta levees and restored the previous version of Policy RR P1 adopted in the Delta Plan in 2013. 3-3

Inconsistencies with the Delta Plan: Section 3.1.2 Land Use states that the "potential for the proposed Project to conflict with The Delta Plan...[is] addressed in Section 3.3 'Terrestrial Biological Resources' and 3.4 'Aquatic Biological Resources." (P. 3-4.) However, neither resource section clearly identifies potential conflicts with the Delta Plan, nor how those potential conflicts were analyzed and addressed. The FEIR should make these potential conflicts clear and document the analysis conducted to evaluate and resolve such potential conflicts. 3-4

Covered Action Determination and Certification of Consistency with the Delta Plan

The Council submitted a comment letter on the Notice of Preparation of an Environmental Impact Report (NOP) on December 17, 2019. In that letter, the Council outlined the multi-part test defining what activities would be considered covered actions set forth in Water Code Section 85057.5 subdivision (a), noting that the Project appears to be a covered action, and that the City must determine if the Project meets the definition of a covered action. 3-5

As stated in the DEIR Section 1.5.4 Required Permits and Approvals, the City has identified the Project as a potential covered action and the DEIR identifies a certification of consistency with the Delta Plan as a permit or approval action needed by the Project. (P. 1-6.) As the local agency carrying out the Project, the City must file a certification of consistency with the Council prior to project implementation. (Wat. Code, § 85225; Cal.

Code Regs., tit. 23, § 5001(j)(3).) The next section of this letter provides information to assist the City in preparing a certification of consistency for the Project. 3-5 cont.

Comments Regarding Delta Plan Policies

The following section describes the Delta Plan regulatory policies that may apply to the Project based on the available information in the DEIR. This information is offered to assist the City to describe the relationship between the Project and the Delta Plan in the FEIR as part of the record supporting the City's future certification of consistency. 3-6

The Delta Plan includes regulatory policies that apply to all covered actions. Below, we have highlighted key regulatory policies that may be relevant to the Project.

General Policy 1: Detailed Findings to Establish Consistency with the Delta Plan

Delta Plan Policy **G P1** (Cal. Code Regs., tit. 23, § 5002) specifies what must be addressed in a certification of consistency by a state or local public agency for a project that is a covered action. The following is a subset of policy requirements which a project shall fulfill to be considered consistent with the Delta Plan: 3-7

Mitigation Measures

Delta Plan Policy **G P1(b)(2)** (Cal. Code Regs., tit. 23, § 5002(b)(2)) requires that covered actions that are not exempt from the California Environmental Quality Act (CEQA) must include all applicable feasible mitigation measures adopted and incorporated into the Delta Plan as amended April 26, 2018 (unless the measures are within the exclusive jurisdiction of an agency other than the agency that files the Certification of Consistency), or substitute mitigation measures that the agency finds are equally or more effective. These mitigation measures are identified in Delta Plan Appendix O and are available at: https://deltacouncil.ca.gov/pdf/delta-plan/2018-appendix-o-mitigation-monitoring-and-reporting-program.pdf.

The DEIR identifies several potentially significant impacts that require mitigation, inculding those related to air quality, terrestrial biological resources, aquatic biological resources, cultural resources, and hazards and hazardous materials. The City should review the mitigation measures in Delta Plan Appendix O which correspond to the potentially significant impacts in these five resource areas, and ensure that the mitigation measures described in the DEIR are equally or more effective than corresponding mitigation measures in Delta Plan Appendix O. In its certification of consistency for the Project, the City should explain how these mitigation measures are equally or more effective.than the applicable mitigation measures contained in Appendix O. 3-8

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Best Available Science

Delta Plan Policy **G P1(b)(3)** (Cal. Code Regs., tit. 23, § 5002(b)(3)) states that actions subject to Delta Plan regulations must document use of best available science as relevant to the purpose and nature of the project. The Delta Plan defines best available science as "the best scientific information and data for informing management and policy decisions." (Cal. Code Regs, tit. 23, § 5001 (f).) Best available science is also required to be consistent with the guidelines and criteria in Appendix 1A of the Delta Plan (https://deltacouncil.ca.gov/pdf/delta-plan/2015-appendix-1a.pdf).

Six criteria are used to define best available science: relevance, inclusiveness, objectivity, transparency and openness, timeliness, and peer review. The City should prepare a Certfication of Consistency that documents the scientific rationale for applying these six criteria to the Project. The Council's Delta Science Program Adaptive Management Liaisons are available to provide further consultation and guidance regarding the use and documentation of best available science in the City's future Certification of Consistency for the Project. 3-9

The certification of consistency for the Project should document how the Project has used best available science related to climate change and sea level rise that could impact the Project's ability to discharge treated effluent and how the effluent discharges could effect water quality and harmful algal blooms.

Adaptive Management

Delta Plan Policy **G P1(b)(4)** (Cal. Code Regs., tit. 23, § 5002(b)(4)) requires that ecosystem restoration and water management covered actions include adequate provisions for continued implementation of adaptive management, appropriate to the scope of the action. This requirement is satisfied through: a) the development of an adaptive management plan that is consistent with the framework described in Appendix 1 B of the Delta Plan (https://deltacouncil.ca.gov/pdf/delta-plan/2015-appendix-1b.pdf), and b) documentation of adequate resources to implement the proposed adaptive management plan. 3-10

An adaptive management plan consistent with the framework referenced above would be required as part of a certification of consistency with the Delta Plan for the Project because the Project proposes to treat waste water/effluent and use recycled water supply. In its certification of consistency, the City should document how its adaptive management plan is consistent with the framework in Appendix 1B, and how its provisions for adaptive management are appropriate to the scope of the Project. In addition, the City should document the resources allocated to implement maintenance, monitoring, and any other adaptive management actions described in the certification. The Council's Delta Science Program Adaptive Management

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Liaisons are available to provide further consultation and guidance on documentation of adaptive management, and we strongly encourage the City to engage with the Council in early consultation regarding this matter. 3-10 cont.

Delta Flow Objectives

Delta Plan Policy **ER P1** (Cal. Code Regs., tit. 23, § 5005) requires that the State Water Resources Control Board's Bay-Delta Water Quality Control Plan (Water Board's Bay-Delta WQCP) flow objectives be used to determine consistency with the Delta Plan.

The DEIR analysis of water quality impacts in Section 3.9 Hyrdology and Water Quality (P. 3.9-1 through 3.9-34) relies on meeting the Water Board's Bay-Delta WQCP requirements, the Central Valley Regional Water Quality Control Board's Basin Plan objectives, and the Project's National Pollutant Discharge Elimination System Permit requirements to conclude throughout the section that the Project's impact on hydrology and water quality resources are less than significant. This information should be included in the project's certification of consistency with the Delta Plan. 3-11

Ecosystem Restoration Policy 5: Avoid Introductions of and Habitat Improvements for Invasive Nonnative Species

Delta Plan Policy **ER P5** (Cal. Code Regs., tit. 23, § 5009) requires that covered actions fully consider and avoid or mitigate the potential for new introductions of, or improved habitat conditions for nonnative invasive species, striped bass, or bass in a way that appropriately protects the ecosystem.

The DEIR describes the construction of a new permanent outfall structure to discharge dechlorinated disinfected tertiray treated effluent into the San Joaquin River. (P. 2.15) While the analysis states that the Project's discharge would not significantly affect the water quality in the river at different times of the year (P. 3.4-29), it does not describe the potential effects of the permanent outfall structure and discharged effluent to introduce or improve habitat for invasive nonnative species. Such discussion should be included in the FEIR. 3-12

In its certification of consistency for the Project, the City should explain how the design, construction, and operations and maintenance elements of the permanent outfall structure and discharged effluent would avoid or mitigate the potential for new introductions of, or improved habitat conditions for, nonnnative invasive species, including those identified in the DEIR. In the certification, the City should also explain how measures to avoid, minimize, or mitigate the potential for new introductions of, or improved habitat conditions for, nonnative invasive species (such as Mitigation Measure BIO-1) are equally or more effective than Delta Plan Mitigation Measure 4-1 (available at: https://deltacouncil.ca.gov/pdf/delta-plan/2018-appendix-o-mitigation-monitoring-and-reporting-program.pdf). 3-13

Closing Comments

The Council invites the City to engage with Council staff in early consultation prior to filing a certification of consistency to discuss project elements and mitigation measures that would promote the Project's consistency with the Delta Plan.

More information on covered actions, early consultation, and the certification process can be found on the Council website at https://coveredactions.deltacouncil.ca.gov. Please contact Anthony Navasero at Anthony.Navaero@deltacouncil.ca.gov with any questions.

3-14

Sincerely,

Jeff Henderson, AICP
Deputy Executive Officer
Delta Stewardship Council

Letter 3 Delta Stewardship Council

Jeff Henderson, AICP, Deputy Executive Officer
December 1, 2020

3-1 The comment provides an introduction to the letter, summarizes the objectives of the proposed project, and provides background on the Delta Reform Act. No specific comment on the adequacy, accuracy, or completeness of the Draft EIR is provided; therefore, no further response is necessary.

3-2 The comment provides a general statement that the Final EIR should identify Delta Plan policies in the applicable resource sections. The Final EIR includes, among other things, the Draft EIR, which refers to Delta Plan policies that may be applicable to the project on pages 3.3-4 and 3.3-5 of Section 3.3, "Terrestrial Biological Resources," and page 6-5 in Section 6.6.1, "Growth-Inducing Impacts of the Project."

The following Delta Plan policies may be applicable to the proposed project:

- Policy G P1 (23 California Code of Regulations [CCR] Section 5002) Detailed Findings to Establish Consistency with the Delta Plan
- Policy ER P1 (23 CCR Section 5005) Delta Flow Objectives
- Policy ER P3 (23 CCR Section 5007) Protect Opportunities to Restore Habitat
- Policy ER P5 (23 CCR Section 5009) Avoid Introductions of and Habitat Improvements for Invasive Nonnative Species
- Policy RR P3 (23 CCR Section 5014) Protect Floodways

Several other policies are included in the Delta Plan but are not applicable to the project. Policy RR P1 (23 CCR Section 5012): Prioritization of State Investments in Delta Levees and Risk Reduction would not apply because the project would not receive state funding. Policy RR P2 (23 CCR Section 5013): Require Flood Protection for Residential Development in Rural Areas also would not apply because the proposed project would not involve construction of residential uses. The comment letter includes some comments that are specific to some of the Delta Plan policies listed above. The responses to comments 3-7 through 3-10 address comments related to Policy G P1. The response to comment 3-11 addresses comments related to Policy ER P1. The response to comment 3-12 addresses comments related to Policy ER P5.

In response to the commenter's suggestion to include Delta Plan policies that may be applicable to the project in the Draft EIR, Section 3.3, "Terrestrial Biological Resources" and Section 3.9, "Hydrology and Water Quality," in the Draft EIR are revised to clarify policies that may apply to the proposed project. This change is presented in Chapter 3, "Revisions to the Draft EIR," in this Final EIR. The clarification provides additional regulatory information; thus, it does not alter the Final EIR conclusions with respect to the significance of any environmental impacts. However, also refer to the response to comment 3-5, which explains that the City has determined the project is not a covered action.

New text is added after the third full paragraph on page 3.3-5 in Section 3.3, "Terrestrial Biological Resources," as follows:

> The following Delta Plan policies are related to biological resources:
>
> Policy ER P2 (23 CCR Section 5006) – Restore Habitats at Appropriate Elevations
>
> (a) Habitat restoration must be carried out consistent with Appendix 3, which is Section II of the Draft Conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions (California Department of Fish and Wildlife 2011). The elevation map attached as Appendix 4 should be used as a guide for determining appropriate habitat restoration actions based on an area's elevation. If a proposed habitat restoration action is not consistent with Appendix 4, the proposal shall provide rationale for the deviation based on best available science.

(b) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers a proposed action that includes habitat restoration.

Policy ER P3 (23 CCR Section 5007) Protect Opportunities to Restore Habitat

(a) Within the priority habitat restoration areas depicted in Appendix 5, significant adverse impacts to the opportunity to restore habitat as described in section 5006, must be avoided or mitigated.

(b) Impacts referenced in subsection (a) will be deemed to be avoided or mitigated if the project is designed and implemented so that it will not preclude or otherwise interfere with the ability to restore habitat as described in section 5006.

(c) Impacts referenced in subsection (a) shall be mitigated to a point where the impacts have no significant effect on the opportunity to restore habitat as described in section 5006. Mitigation shall be determined, in consultation with the California Department of Fish and Wildlife, considering the size of the area impacted by the covered action and the type and value of habitat that could be restored on that area, taking into account existing and proposed restoration plans, landscape attributes, the elevation map shown in Appendix 4, and other relevant information about habitat restoration opportunities of the area.

(d) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers proposed actions in the priority habitat restoration areas depicted in Appendix 5. It does not cover proposed actions outside those areas.

Policy ER P5 (23 CCR Section 5009) Avoid Introductions of and Habitat Improvements for Invasive Nonnative Species

(a) The potential for new introductions of or improved habitat conditions for nonnative invasive species, striped bass, or bass must be fully considered and avoided or mitigated in a way that appropriately protects the ecosystem.

(b) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers a proposed action that has the reasonable probability of introducing or improving habitat conditions for nonnative invasive species.

A new section for the Sacramento-San Joaquin Delta Reform Act of 2009 and a list of potentially applicable Delta Plan policies is added after the "Central Valley Flood Protection Act" section as part of the regulatory setting on page 3.9-5 in Section 3.9, "Hydrology and Water Quality," as follows:

Sacramento-San Joaquin Delta Reform Act of 2009

A summary of the Sacramento-San Joaquin Delta Reform Act (Delta Reform Act) (California Water Code Section 10610 et seq.) is provided in the regulatory setting of Section 3.3, "Terrestrial Biological Resources." The following Delta Plan policies are related to hydrology and water quality:

Policy ER P1 (23 CCR Section 5005) Delta Flow Objectives

(a) The State Water Resources Control Board's Bay Delta Water Quality Control Plan flow objectives shall be used to determine consistency with the Delta Plan. If and when the flow objectives are revised by the State Water Resources Control Board, the revised flow objectives shall be used to determine consistency with the Delta Plan.

(b) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, the policy set forth in subsection (a) covers a proposed action that could significantly affect flow in the Delta.

Policy RR P3 (23 CCR Section 5014) Protect Floodways

(a) No encroachment shall be allowed or constructed in a floodway, unless it can be demonstrated by appropriate analysis that the encroachment will not unduly impede the free flow of water in the floodway or jeopardize public safety.

(b) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers a proposed action that would encroach in a floodway that is not either a designated floodway or regulated stream.

3-3 The comment suggests that the Draft EIR provide additional information related to amendments made to the Delta Plan. A clarification is presented in Chapter 3, "Revisions to the Draft EIR," in this Final EIR as shown below. The clarification provides additional regulatory information; thus, it does not alter the conclusions with respect to the significance of any environmental impact.

The first full paragraph on page 3.3-5 in Section 3.3, "Terrestrial Biological Resources," is revised to read as follows:

> The Delta Plan was amended in February 2016 to include refined performance measures, which were again amended in April 2018. A September 2016 amendment made permanent an exemption for single-year water transfers to be considered as covered actions. Also, in April 2018, the Delta Plan was amended to revise Chapter 3 to include new text and recommendations for conveyance, storage, and operations, and to revise Chapter 7 to include new text and a policy for setting priorities for state investments in Delta levees. In March 2020, DSC rescinded the April 2018 amendment to Delta Plan Policy RR P1, which set new priorities for state investment in Delta levees and restored the previous version of Policy RR P1 adopted in the Delta Plan in 2013.

3-4 The comment states that Section 3.3, "Terrestrial Biological Resources," of the Draft EIR does not clearly identify potential conflicts with the Delta Plan and suggests that the Final EIR should make any potential conflicts clear and explain how such potential conflicts would be resolved. Delta Plan Policy GP1 is the only policy that is directly applicable to terrestrial biological resources and therefore is the only policy for which consistency may be evaluated. However, as explained in the response to comment 3-5, the City has determined that the proposed project is not a covered action.

Policy GP1 requires that covered actions not excluded from the requirements of CEQA use the applicable mitigation measures identified in the Delta Plan EIR or substitute mitigation measures that are equally or more effective. Section 3.3, "Terrestrial Biological Resources," of the DEIR identifies significant impacts on special-status wildlife species, jurisdictional waters, and riparian habitat. Impacts on special-status wildlife are not addressed by mitigation measures in the Delta Plan EIR, and mitigation measures in the Delta Plan EIR other than those relevant to jurisdictional waters and riparian habitat are not applicable. Section 3.3, "Terrestrial Biological Resources," identifies mitigation measures to reduce impacts on jurisdictional waters and riparian habitat to less than significant levels. These measures are equally or more effective than the mitigation identified in the Delta Plan EIR and would reduce project impacts to these physical environmental resources to a less-than-significant level.

3-5 The comment notes that the proposed project appears to be a Covered Action under the Sacramento–San Joaquin Delta Reform Act and that the City must determine whether the project meets the definition of a covered action. The comment refers to Section 1.5.4, "Required Permits and Approvals," of the Draft EIR, indicating that the City has identified the project as a potential covered action requiring a certification of consistency with the Delta Plan. Although the Draft EIR identified the project as a potential covered action, the City has since reviewed the Covered Action Checklist on DSC's website (available at https://coveredactions.deltacouncil.ca.gov/Files/Covered-Actions-Checklist_Feb2020.pdf) and determined that the project is not a Covered Action. This response addresses the applicable steps of the checklist to demonstrate that the City's project is not a Covered Action.

Step 1: Determine if the project is exempt from the definition of a "covered action."

The project is not exempt from the definition of a "Covered Action."

Step 2: Determine if the project meets all four "screening criteria."

The project does not meet all four of the screening criteria, which are as follows:

1. The action is a plan, program, or project as defined pursuant to Public Resources Code Section 21065.
2. The action will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh.
3. The action will be carried out, approved, or funded by the State or a local public agency.
4. The action will have a significant impact on the achievement of one or both of the coequal goals or the implementation of a government-sponsored flood control program to reduce risks to people, property, and State interests in the Delta.

The action is a project as defined pursuant to Public Resources Code Section 21065 as it is an activity undertaken by a public agency; would occur within the boundary of the Delta; and would be carried out, approved, and funded by a local public agency. However, the project would not have a significant impact on the achievement of one or both of the coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem, or the implementation of a government-sponsored flood control program for the following reasons: The project would discharge highly treated effluent to the San Joaquin River primarily during the winter when flows in the river are high, and would not affect the availability of surface or groundwater supplies, nor impact water quality. The project also would mitigate project-related effects to riparian habitat and waters of the state and waters of the U.S. such that the Delta ecosystem would not be impacted. Furthermore, because the project would return the levee section affected by the outfall construction to pre-project conditions, the project would not affect the integrity of the San Joaquin River east side levee, a federal project levee maintained by Reclamation District 17.

In accordance with the Covered Action Checklist, because the project would not have a significant impact on the achievement of one or both of the coequal goals or the implementation of a government-sponsored flood control program to reduce risks to people, property, and State interests in the Delta, the project does not meet the definition of a Covered Action and no further steps in the Covered Action Checklist are required.

3-6 The comment generally states that Delta Plan regulatory policies may apply to the proposed project and that the comment letter provides information to assist the City in describing the relationship between the proposed project and the Delta Plan in support of a certification of consistency for the proposed project. See the response to comment 3-5, which explains that the City has determined that the proposed project is not a Covered Action.

3-7 The comment states that Delta Plan Policy G P1 identifies the information required for a certification of consistency issued by a lead agency for a project. See the response to comment 3-5, which explains the City's rationale in determining that the proposed project is not a Covered Action.

3-8 The City has reviewed the following mitigation measures which would reduce impacts of the proposed project to a less than significant level and found them to be equally as effective or more effective than corresponding mitigation in Appendix O of the Delta Plan; note that the comment does not indicate any of the mitigation measures in Appendix O of the Delta Plan are more effective than what is shown in the EIR:

- Mitigation Measure 3.2-1: Apply Tier-4 Emissions Standards to Achieve a 30-Percent Reduction in NO_x Emissions from Diesel-Powered Off-Road Equipment;
- Mitigation Measure 3.3-1a: Seek Coverage under the SJMSCP;
- Mitigation Measure 3.3-1b: Conduct Survey for and Protect Valley Elderberry Longhorn Beetle;
- Mitigation Measure 3.3-2: Conduct Western Pond Turtle Preconstruction Survey and Relocation;
- Mitigation Measure 3.3-3: Protect Swainson's Hawk, White-Tailed Kite, Cooper's Hawk, Sharp-Shinned Hawk, and Other Nesting Raptors;
- Mitigation Measure 3.3-4: Protect Loggerhead Shrike, California Horned Lark, and Other Nesting Birds;

- Mitigation Measure 3.3-5: Protect Riparian Brush Rabbit;
- Mitigation Measure 3.3-6: Compensate for Loss of Waters of the United States and State;
- Mitigation Measure 3.3-7: Minimize and Compensate for the Loss of Riparian Habitat;
- Mitigation Measure 3.4-2: Conduct Fish Rescue and Relocation Operation;
- Mitigation Measure 3.5-2: Implement Inadvertent Discovery Measures for the Protection of Archaeological Resources;
- Mitigation Measure 3.5-3: Implement Inadvertent Discovery Measures for the Protection of Tribal Cultural Resources;
- Mitigation Measure 3.5-4: Implement Inadvertent Discovery Measures for the Protection of Human Remains; and
- Mitigation Measure 3.8-1: Implement Mitigation Measure 4.14.-1, "Existing Hazardous Materials/Waste Sites," Incorporated by Reference into the 2013 CTF IS/MND.

3-9 See the response to comment 3-5, which explains the City's rationale in determining that the proposed project is not a Covered Action. Because the proposed project is not a Covered Action, the City was not required to consider climate change and sea level rise impacts, although such considerations are required under CEQA if there is the potential for a significant impact. The Draft EIR evaluated the effects of climate change and determined the impacts were mitigated to a less-than-significant level.

3-10 See the response to comment 3-5, which explains the City's rationale in determining that the proposed project is not a Covered Action.

3-11 See the response to comment 3-5, which explains the City's rationale in determining that the proposed project is not a Covered Action.

3-12 See the response to comment 3-5, which explains the City's rationale in determining that the proposed project is not a Covered Action. Furthermore, the proposed outfall structure would not provide habitat for nonnative invasive species as explained in Section 3.3 of the Draft EIR. The end of the pipe would be fitted with a check valve to prevent backflow into the pipe when it is not discharging, which would prevent colonization by nonnative invasive species. Also see the response to comment 7-8, regarding the outfall structure design, which would not produce large areas of hydraulic velocity breaks where predatory fishes would hold and prey on emigrating native fish.

3-13 See the response to comment 3-5, which explains the City's rationale in determining that the proposed project is not a Covered Action. Also refer to the response to comment 3-8, regarding the finding that proposed mitigation measures would be equally as effective as mitigation measures identified in the Delta Plan.

3-14 The comment provides an invitation to the City to engage with DSC staff before filing a certification of consistency. The comment also identifies a website where additional information related to preparing the certification of consistency may be found. See the response to comment 3-5. No specific comment on the adequacy, accuracy, or completeness of the Draft EIR is provided; therefore, no further response is necessary.

CALIFORNIA
Water Boards

Letter 4

State Water Resources Control Board

Michael King
City of Lathrop
390 Towne Centre Drive
Lathrop, CA 95330

Dear Mr. King:

DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE CITY OF LATHROP (CITY); LATHROP CONSOLIDATED TREATMENT FACILITY SURFACE WATER DISCHARGE PROJECT (PROJECT); SAN JOAQUIN COUNTY; STATE CLEARINGHOUSE NO. 2019110339

We understand that the City is pursuing Clean Water State Revolving Fund (CWSRF) financing for this Project (CWSRF No. C-06-8561-110). As a funding agency and a state agency with jurisdiction by law to preserve, enhance, and restore the quality of California's water resources, the State Water Resources Control Board (State Water Board) is providing the following information on the EIR to be prepared for the Project.

The State Water Board, Division of Financial Assistance, is responsible for administering the CWSRF Program (Program). The primary purpose for the Program is to implement the Clean Water Act and various state laws by providing financial assistance for wastewater treatment facilities necessary to prevent water pollution, recycle water, and thereby protect and promote health, safety and welfare of the inhabitants of the state. 4-1

The Program is partially funded by the United States Environmental Protection Agency (USEPA) and requires additional "California Environmental Quality Act (CEQA)-Plus" environmental documentation and review. Two enclosures are included that illustrate the Program environmental review process including the additional CEQA-Plus federal requirements. For the complete environmental application package and instructions please visit: http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/srf_forms.shtml . The State Water Board is required to consult directly with agencies responsible for implementing federal environmental laws and regulations. Any environmental issues raised by federal agencies or their representatives will need to be resolved prior to the State Water Board's approval of a CWSRF financing commitment for your proposed Project. For further information on the Program, please contact Mr. Brian Cary, at (916) 449-5624.

It is important to note that prior to a CWSRF financing commitment, projects subject to provisions of the Federal Endangered Species Act (ESA), must obtain ESA, Section 7 clearance from the United States Department of the Interior, Fish and Wildlife Service (USFWS), and/or the United States Department of Commerce National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS) specific to any potential effects to special-status species.

Please be advised that the State Water Board will coordinate with the USEPA to consult with the USFWS, and/or the NMFS regarding all federal special-status species that the Project has the potential to affect if the Project is to be financed by the Program. The City will need to identify whether the Project will involve any direct effects from construction activities, or indirect effects such as growth inducement, that may affect federally listed threatened, endangered, or candidate species that are known, or have a potential to occur in the Project site, in the surrounding areas, or in the service area, and to identify applicable conservation measures to reduce such effects. 4-2

In addition, CWSRF projects must comply with federal laws pertaining to cultural resources, specifically Section 106 of the National Historic Preservation Act (Section 106). The State Water Board is responsible for ensuring compliance with Section 106 and is required to consult directly with the California State Historic Preservation Officer (SHPO). The SHPO consultation is initiated once sufficient information is provided by the CWSRF applicant. If the City decides to pursue CWSRF financing, please retain a consultant that meets the Secretary of the Interior's Professional Qualifications Standards (http://www.nps.gov/history/local-law/arch_stnds_9.htm) to prepare a Section 106 compliance report. 4-3

Note that the City will need to identify the Area of Potential Effects (APE), including construction and staging areas, and the depth of any excavation. The APE is three-dimensional and includes all areas that may be affected by the Project. The APE includes the surface area and extends below ground to the depth of any Project excavations. The records search request should extend to a ½-mile beyond project APE. The appropriate area varies for different projects but should be drawn large enough to provide information on what types of sites may exist in the vicinity.

Other federal environmental requirements pertinent to the Project under the Program include the following (for a complete list of all federal requirements and instructions please visit http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/srf_forms.shtml :

4-4

A. An alternative analysis discussing environmental impacts of the Project in either the CEQA document (i.e. Environmental Impact Report) or in a separate report (i.e. for projects utilizing a Negative Declaration or Mitigated Negative Declaration).

B. A public hearing or meeting for adoption/certification of all CEQA documents except for those with little or no environmental impacts. 4-5

C. Compliance with the Federal Clean Air Act: (a) Provide air quality studies that may have been done for the Project; and (b) if the Project is in a nonattainment area or attainment area subject to a maintenance plan; (i) provide a summary of the estimated emissions (in tons per year) that are expected from both the construction and operation of the Project for each federal criteria pollutant in a nonattainment or maintenance area, and indicate if the nonattainment designation is moderate, serious, or severe (if applicable); (ii) if emissions are above the federal de minimis levels, but the Project is sized to meet only the needs of current population projections that are used in the approved State Implementation Plan for air quality, quantitatively indicate how the proposed capacity increase was calculated using population projections. 4-6

D. Compliance with the Coastal Zone Management Act: Identify whether or not the Project is within a coastal zone and the status of any coordination with the California Coastal Commission. 4-7

E. Protection of Wetlands: Identify any portion of the proposed Project area that should be evaluated for wetlands or United States waters delineation by the United States Army Corps of Engineers (USACE), or requires a permit from the USACE, and identify the status of coordination with the USACE. 4-8

F. Compliance with the Farmland Protection Policy Act: Identify whether or not the Project will result in the conversion of farmland. Identify the status of farmland (prime, unique, local or statewide Importance) in the Project area and determine if this area is under a Williamson Act Contract. 4-9

G. Compliance with the Migratory Bird Treaty Act: List any birds protected under this act that may be impacted by the Project and identify conservation measures to minimize impacts. 4-10

H. Compliance with the Flood Plain Management Act: Identify whether or not the Project is in a Flood Management Zone and include a copy of the Federal Emergency Management Agency flood zone maps for the area. 4-11

I. Compliance with the Wild and Scenic Rivers Act: Identify whether or not any Wild and Scenic Rivers would be potentially impacted by the Project and include conservation measures to minimize such impacts. 4-12

Following are specific comments on City's draft EIR:

1. For the Project, please obtain executed Incidental Take Mitigation Measures (ITMMs) for federally listed special-status species from the San Joaquin County of Governments who oversees the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) approved by the United States Fish and Wildlife Service. 4-13

2. The aquatic biological assessment identifies construction-related impacts. A coffer dam to be installed, dewatering, and contour restoration will occur in dry season to isolate outfall construction activities. An outfall structure and conveyance pipeline levee crossing will be installed in the San Joaquin River channel. Please identify the dimensions (length, width, and depth) of ground disturbance and construction staging for these project activities. 4-14
3. For a similar project the CWSRF Program has recently completed an informal consultation with the National Oceanic Atmospheric Administration (NOAA) Fisheries, (National Marine Fisheries Service, or NMFS) office, for anadromous fish species in the San Joaquin River, currently being constructed by the City of Stockton. It would be prudent to *get early feedback from the NMFS on the modelling methods, potential impacts, and conservation measures identified in the aquatic biological assessment.* Please contact Jeffrey S. Stuart, Fishery Biologist, NOAA Fisheries West Coast Region, U.S. Department of Commerce, California Central Valley Office at Office: 916-930-3607 or by email at J.Stuart@noaa.gov for technical assistance regarding the adequacy of the biological assessment for a potential federal consultation under the Endangered Species Act. 4-15
    a. Resources of concern: Critical habitat designated for the Central Valley steelhead distinct population segment (DPS), southern DPS of green sturgeon, and delta smelt. Additionally, the Essential Fish Habitat for Pacific salmon, which includes the Sacramento River winter-run Chinook salmon environmentally sustainable unit (ESU), the Central Valley spring-run Chinook salmon ESU, and Central Valley fall-/late fall-run Chinook salmon.

Please upload to FAAST the following documents applicable to the proposed Project following the City CEQA process: (1) one copy of the draft and final EIR, (2) the resolution adopting/certifying the EIR and making CEQA findings, (3) all comments received during the review period and the City's response to those comments, (4) the adopted Mitigation Monitoring and Reporting Program and (5) the Notice of Determination filed with the San Joaquin County Clerk and the Governor's Office of Planning and Research, State Clearinghouse. In addition, we would appreciate notices of any hearings or meetings held regarding environmental review of any projects to be funded by the State Water Board. 4-16

Thank you for the opportunity to review the City's draft EIR. If you have any questions or concerns, please feel free to contact me at (916) 341-6983, or by email at Cedric.Irving@waterboards.ca.gov or contact Brian Cary at (916) 449-5624, or by email at Brian.Cary@waterboards.ca.gov or contact Mrs. Bridget Binning at (916) 449-5641, or by email at Bridget.binning@waterboards.ca.gov.

Sincerely,

Cedric S. Irving Digitally signed by Cedric S. Irving Date: 2020.12.01 08:08:13 -08'00'

Cedric Irving
Environmental Scientist

Enclosures (2):

1. Division of Financial Assistance CEQA Requirements
2. Clean Water State Revolving Fund Environmental Review Requirements

4-16 cont.

cc: State Clearinghouse
(Re: SCH# 2019110339)
P.O. Box 3044
Sacramento, CA 95812-3044

bcc: Brian Cary, Division of Financial Assistance
Jody Hack, Division of Financial Assistance

STATE WATER RESOURCES CONTROL BOARD,

DIVISION OF FINANCIAL ASSISTANCE

California Environmental Quality Act Requirements

The State Water Resources Control Board (State Water Board) Division of Financial Assistance (DFA) funds wastewater, recycled water, and drinking water infrastructure projects as well as water quality improvement projects using resources from various state grant programs. All applicants seeking grant funds must comply with the California Environmental Quality Act (CEQA) and provide appropriate documents to the State Water Board so that it can fulfill its CEQA responsibilities.

LEAD AGENCY

The applicant is usually the Lead Agency and must prepare and circulate an environmental document before approving a project. Only a public agency, such as a local, regional or state government, may be the Lead Agency under CEQA. If a project will be completed by a non-governmental organization, Lead Agency responsibility goes to the first public agency providing discretionary approval for the project. In this situation, the State Water Board may serve as Lead Agency.

RESPONSIBLE AGENCY

Typically, the State Water Board is a Responsible Agency. As a Responsible Agency, the State Water Board must make its own findings using information provided by the Lead Agency before funding a project.

STATE WATER BOARD RESPONSIBILITIES

The State Water Board's mission is to preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure their proper allocation and efficient use for the benefit of present and future generations. To fulfill this responsibility, and to carry out obligations as a Responsible Agency under CEQA, the State Water Board must consider the Lead Agency's environmental document before funding a project.

ENVIRONMENTAL REVIEW

The State Water Board's environmental review process must be completed before the State Water Board can approve a project for funding and the project can begin construction

DOCUMENT REVIEW

The State Water Board would like to review CEQA documents as early as possible. Applicants are encouraged to consult with agency staff during development of CEQA documents if considering applying for funding from DFA. Potential applicants should consider sending their environmental documents to DFA, Environmental Section during the CEQA public review period. This way, any environmental concerns the State Water Board has about the project can be addressed early in the process.

REQUIRED DOCUMENTS

The Environmental Section within DFA requires the documents listed below to complete the environmental review:

1. Draft and Final Environmental Documents – Environmental Impact Reports, Negative Declarations, Mitigated Negative Declarations, Notice of Exemptions, as appropriate for the project;

2. All comments – that were received during the public review period and the Lead Agency's responses to those comments;

3 Adopted Mitigation Monitoring and Reporting Plan – this is separate from, and in addition to, the identification of mitigation measures in the CEQA document;

4 Resolution/Minutes – these document that the applicant adopted or certified the CEQA document, made CEQA findings, and approved the project;

5. Date-stamped copy of the Notice of Determination or Notice of Exemption – these result after filing of the document with the County Clerk and the Governor's Office of Planning and Research; and

6. Completed Environmental Package – this is a component of the Funding Application.

Once the State Water Board receives all the required documents and determines them to be adequate to make its own findings, the environmental review for the funding application will be completed

CONTACT INFORMATION

For more information about the State Water Board's environmental review process, please visit our website: *https://www.waterboards.ca.gov/water_issues/programs/grants_loans/environmental_requirements.html*

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STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

4-17

ENVIRONMENTAL REVIEW REQUIREMENTS

All applicants for SRF financing must thoroughly analyze the environmental consequences of their project. Applicants must comply with the California Environmental Quality Act (CEQA) and federal cross-cutting authorities as part of the SRF environmental review requirements. All SRF environmental requirements must be met prior to the start of construction activities.

CEQA

The environmental review process used to determine compliance with appropriate state and federal environmental regulations begins with successful completion of CEQA.

Typically, the applicant is the CEQA Lead Agency and must prepare and circulate an environmental document before approving a project. Only a public agency, such as a local, regional, or state government may serve as the Lead Agency under CEQA. If a project will be completed by a non-governmental organization, Lead Agency responsibility goes to the first public agency providing discretionary approval for the project. In these instances, the State Water Board may serve as Lead Agency on behalf of the applicant.

Usually, the State Water Board is a CEQA Responsible Agency, making its own independent findings using information submitted by the Lead Agency prior to approving funding for a project.

The applicant must provide the final, project-specific environmental document, associated reports, and other supporting materials demonstrating compliance with CEQA as part of the application's Environmental Package.

FEDERAL CROSS-CUTTING AUTHORITIES

In addition to completing CEQA, the applicant must conduct the necessary studies and analyses and prepare documentation demonstrating that the proposed project is in compliance with the federal cross-cutting environmental authorities. As the USEPA designated, "non-federal" state agency representative responsible for consultation with appropriate federal agencies, the State Water Board staff will review materials for compliance with relevant cross-cutters. Staff may require additional studies or documentation to fulfill this obligation. The principal federal authorities that need addressing in the application are:

- Archaeological & Historic Preservation Act
- Clean Air Act
- Coastal Barriers Resources Act
- Coastal Zone Management Act
- Endangered Species Act
- Environmental Justice Executive Order
- Farmland Protection Policy Act
- Fish & Wildlife Conservation Act
- Flood Plain Management
- Magnuson-Stevens Fishery Conservation & Management Act
- Migratory Bird Treaty Act
- National Historic Preservation Act
- Protection of Wetlands
- Rivers & Harbors Act
- Safe Drinking Water Act, Sole Source Aquifer Protection
- Wild & Scenic Rivers Act

Material in this brochure highlights key SRF environmental requirements

OUR SRF PROGRAMS

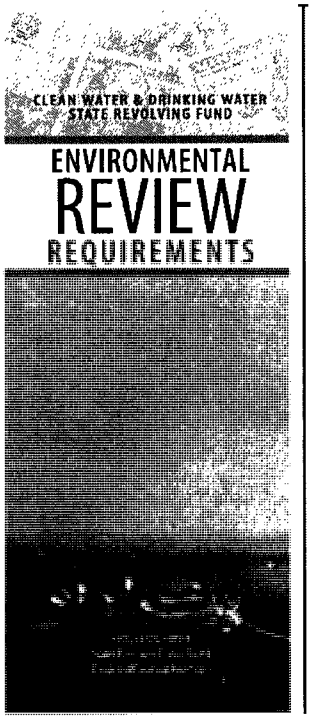
The State Water Resources Control Board (State Water Board) administers the Clean Water and Drinking Water State Revolving Fund (SRF) Programs to support a wide range of infrastructure projects. The SRF Programs represent a powerful partnership between the State and the United States Environmental Protection Agency (USEPA), who provides partial Program funding. The applicant will need to complete the Environmental Package, which compiles and transmits the necessary environmental documents and supporting information for State Water Board staff to review to determine compliance with state and federal environmental laws and regulations. SRF funds are available for planning and design, as well as construction activities.

QUESTIONS

The consultation process can be lengthy especially if the project is expected to affect biological or cultural resources. Please contact your State Water Board Project Manager and/or Environmental Section staff early in the planning process to discuss what environmental information may be needed for your project.

WEBSITE

http://www.waterboards.ca.gov/water_issues/programs/grants_loans/environmental_requirements.html



4-18

FEDERAL CROSS-CUTTING AUTHORITIES THAT USUALLY REQUIRE ADDITIONAL STUDIES

Clean Air Act (CAA)

CAA requires federally funded projects to meet the General Conformity requirements and applies in areas where National Ambient Air Quality Standards are not met or in areas that are subject to a maintenance plan.

If project emissions are below the federal "de minimis" levels, then a General Conformity determination is not required.

If project emissions are above the federal "de minimis" levels, then a General Conformity determination must be made.

An air quality modeling analysis may be needed regardless of the attainment status for the following constituents.

- Ozone;
- Carbon monoxide;
- Nitrous oxide;
- Sulfur dioxide;
- Lead, and
- Particulate matter (PM2.5 and PM10).

Commonly, applicants use the California Emissions Estimator Model (CalEEMod) to approximate project related emissions. This model can be downloaded from www.caleemod.com. A user's guide and Frequently Asked Questions document are available at this site as well. Applicants also may want to discuss project impacts with the local air district.

Endangered Species Act (ESA)

ESA, Section 7, requires an assessment of the direct and indirect effects of the project on federally listed species and critical habitat. A biological resources assessment report is required and must include, but is not limited to:

- Recent species and critical habitat lists generated from the US Fish and Wildlife Service's Information for Planning and Consultation online database;
- A recent species list from the National Marine Fisheries Service, if appropriate;
- A recent search of the California Department of Fish and Wildlife's Natural Diversity Database, including appropriate species observation information and maps;
- A field survey performed by a qualified biologist;
- An evaluation (usually presented in table form) of the project's potential to affect federally listed species.
- Special surveys, as appropriate;
- Maps delineating the project area and species occurrence;
- Identification of measures to minimize, and/or avoid impacts, and
- A recommendation on an ESA determination (i.e., "no effect," "may affect, but not likely to adversely affect," or "may affect and is likely to adversely affect").

The State Water Board staff will conduct an independent review of these materials to determine the potential effect of the project on the federally listed species and will make a recommendation to USEPA on how to proceed under ESA, Section 7.

National Historic Preservation Act (NHPA)

NHPA, Section 106, requires an analysis of the effects of the project (or undertaking) on "historic properties." Historic properties (i.e., prehistoric or historic districts, sites, buildings, structures, or objects 50 years or older) are properties that are included in or eligible for inclusion in the National Register of Historic Places. A historic properties identification report (HPIR) must be prepared in accordance with Section 106 requirements by a qualified professional meeting the Secretary of the Interior's Standards in archaeology or history.

Specific requirements of the HPIR include, but are not limited to:

- The project description and a clearly defined area of potential effects (APE), specifying length, width, and depth of excavation, with a labeled map;
- A recent Information Center records search extending to half-mile beyond the project APE,
- Background research (e.g., old USGS maps, ethnographic records, historical records, etc.);
- Documentation of outreach to the Native American Heritage Commission, appropriate Tribes, historical societies, and interested parties;
- Detailed description of survey methods and findings; and
- Identification and evaluation of cultural resources within the APE.

Cultural resources reports prepared for CEQA may be used, but often require more information.

Environmental Alternatives Analysis

SRF regulations require that an explanation of the alternatives considered for the project and the rationale for selection of the chosen project alternative be prepared and that it assess the environmental impacts of each alternative. Known as the environmental alternative analysis, this information can be included in the project engineering report, the CEQA document, or a technical memorandum. The environmental alternative analysis must include the following:

- Range of feasible alternatives, including a "no project/no action" alternative,
- Comparative analysis among the alternatives that discusses direct, indirect, and cumulative, beneficial and adverse environmental impacts on the existing and future environment, as well as sensitive environmental issues, and
- Appropriate mitigation measures to address impacts.

Public Participation

SRF regulations also require adequate opportunity for the public, responsible agencies, and trustee state agencies under CEQA to review and comment on the project. All projects, except those with little to no environmental impacts (namely, CEQA exempt projects), must hold a public hearing or meeting to approve the CEQA document(s). The CEQA process includes public noticing opportunities, but other public meetings may be needed to meet the federal requirements. The applicant will be asked to provide the date(s) of when such meeting(s) were held for the project as part of the environmental review.

4-18 cont.

Letter 4 State Water Resources Control Board

Cedric Irving, Environmental Scientist
December 1, 2020

4-1 The comment expresses the understanding that the City is pursuing Clean Water State Revolving Fund (CWSRF) financing for the proposed project. The comment provides background about SWRCB's role in the CWSRF program and requirements for preparation of a CEQA-Plus environmental document. The comment notes the requirements for agencies consulting with SWRCB that are seeking CWRSF financing. While the City expressed initial interest in this funding source, it has decided to not seek CWSRF financing for the proposed project; thus, a CEQA-Plus environmental document and compliance with other CWSRF financing requirements are not necessary.

4-2 The comment summarizes the federal requirements related to environmental resources for projects seeking CWSRF financing. See the response to comment 4-1, which explains that the City is not seeking CWSRF financing for the proposed project.

4-3 The comment summarizes the federal requirements pertaining to cultural resources for projects seeking CWSRF financing. See the response to comment 4-1, which explains that the City is not seeking CWSRF financing for the proposed project.

4-4 The comment states that other environmental requirements of the CWRSF financing program include an alternative analysis in the CEQA document. See the response to comment 4-1, which explains that the City is not seeking CWSRF financing for the proposed project. An alternatives analysis is included in Chapter 5, "Alternatives," in the Draft EIR in accordance with CEQA.

4-5 The comment states that the CWRSF financing program requires a public hearing or meeting for adoption of all CEQA documents. See the response to comment 4-1, which explains that the City is not seeking CWSRF financing for the proposed project. However, a public meeting was hosted by the City to hear oral comments on the Draft EIR (see Section 1.7, "CEQA Public Review Process," in this Final EIR), and certification of this Final EIR would occur at a public meeting of the City Council.

4-6 The comment summarizes the environmental requirements of the CWRSF financing program related to air quality. See the response to comment 4-1, which explains that the City is not seeking CWSRF financing for the proposed project. Nevertheless, as required by CEQA, air quality impacts are analyzed in Section 3.2, "Air Quality," of the Draft EIR.

4-7 The comment identifies the environmental requirements of the CWRSF financing program related to the Coastal Zone Management Act. The proposed project is not located in the coastal zone. See the response to comment 4-1, which explains that the City is not seeking CWSRF financing for the proposed project.

4-8 The comment identifies the environmental requirements of the CWRSF financing program related to wetlands or a permit from USACE. See the response to comment 4-1, which explains that the City is not seeking CWSRF financing for the proposed project. Potential impacts on or the loss of waters of the United States and state are assessed in the discussion of Impact 3.3-6 on page 3.3-30 in Section 3.3, "Terrestrial Biological Resources," in the Draft EIR, which states that an aquatic resources delineation was conducted on June 5, 2020. The delineation has been submitted to USACE for verification. The project would not result in significant impacts to wetlands.

4-9 The comment states that the other environmental requirements of the CWRSF financing program include compliance with the Farmland Protection Policy Act. See the response to comment 4-1, which explains that the City is not seeking CWSRF financing for the proposed project. However, as stated on page 3-3 in Section 3.1.2, "Effects Found Not to Be Significant," no Important Farmland or Williamson Act contract lands are located on the project site.

4-10 The comment states that the other environmental requirements of the CWRSF financing program include compliance with the Migratory Bird Treaty Act. See the response to comment 4-1, which explains that the

City is not seeking CWSRF financing for the proposed project. However, potential impacts on birds that may be covered by the Migratory Bird Treaty Act are analyzed in the discussion of Impacts 3.3-3 and 3.3-4 on pages 3.3-26 through 3.3-28 in Section 3.3, "Terrestrial Biological Resources," in the Draft EIR. The project would not result in significant impacts to migratory birds.

4-11 The comment states that the other environmental requirements of the CWRSF financing program include compliance with the Flood Plain Management Act. See the response to comment 4-1, which explains that the City is not seeking CWSRF financing for the proposed project. Flood impacts are analyzed in Section 3.9, "Hydrology and Water Quality," of the Draft EIR and were found to be mitigated to a less than significant level.

4-12 The comment states that the other environmental requirements of the CWRSF financing program include compliance with the Wild and Scenic Rivers Act. The San Joaquin River, which is located in part of the project site, is not a designated Wild and Scenic River. See the response to comment 4-1, which explains that the City is not seeking CWSRF financing for the proposed project.

4-13 The comment requests that the proposed project obtain the executed ITMMs for federally listed special-status species from SJCOG. As discussed in Section 3.3.1, "Regulatory Setting," of the Draft EIR and in the response to comment 1-4, the City of Lathrop is a participant in the SJMSCP, and the proposed project is a covered activity under the SJMSCP. Through participation in the SJMSCP, the City is authorized for take under the USFWS Section 10(a)(1)(B) permit and the California Department of Fish and Wildlife Section 2081 permit issued to the City of Lathrop. The City will implement avoidance and minimization measures pursuant to the issued incidental take permits before ground disturbance. As described above under response to comment 1-2, consultation with USFWS under the ESA and with CDFW will occur to obtain the required incidental take authorizations for riparian brush rabbit and the City will implement Mitigation Measure 3.3-5: Protect Riparian Brush Rabbit to avoid take of individual riparian brush rabbits by the project.

4-14 The comment requests that the dimensions (length, width, and depth) of ground disturbance and construction staging for installation of the cofferdam and construction of the outfall and conveyance pipeline levee crossing in the San Joaquin River channel be identified.

Before construction on the waterside of the levee begins, a temporary cofferdam would be erected using fifty 5-foot-wide by approximately 60-foot-tall sheet piles. The piles would be put into place using a 200-ton crawler crane positioned on the levee crown. To ensure that the crane reaches the full extent of the area where sheet piles would be placed, the levee crown above the ordinary high-water mark, would be temporarily widened using crane mats and jump bridges to facilitate crane operations. After each sheet pile is put into position using the crane, an APE Model 200 vibratory driver fitted on the crane would be used to vibrate each sheet pile into place, up to approximately 40 feet below the riverbed. The anticipated footprint of the cofferdam is estimated to be approximately 0.003 acre and 250 linear feet (LF) in length, enclosing an area of approximately 0.18 acre.

For the conveyance pipeline/levee crossing, approximately 250 LF of new 20-inch welded steel pressurized pipe would be installed in an approximately 16-foot-wide trench excavated through the levee seepage berm and levee prism above the 200-year water surface elevation from the levee toe to the proposed outfall on the waterside of the levee. The trench would be excavated to a maximum depth of 5 feet, with typical depth being 4 feet.

The outfall structure would be approximately 17 feet by 10 feet, and excavation in the channel would be to a maximum depth of approximately 16 feet below present channel contours and 4 feet below the channel bottom.

4-15 The comment summarizes CWSRF staff experience related to informal consultation with NOAA-NMFS for anadromous fish species in the San Joaquin River. The comment recommends getting early feedback from NOAA-NMFS on modelling methods, potential impacts, and conservation measures identified in the aquatic biological assessment (BA). The City appreciates this comment and submitted its BA to the USACE for submittal to NOAA-NMFS in accordance with Section 7 of the ESA.

4-16 The comment provides procedural information related to the CWRSF financing program. See the response to comment 4-1, which explains that the City is not seeking CWSRF financing for the proposed project.

4-17 The comment includes a summary of CEQA requirements for applicants seeking grant funds from SWRCB. The City is not seeking CWSRF financing or any other SWRCB grant funding for the proposed project.

4-18 The comment includes a summary of environmental review requirements for applicants seeking CWSRF financing. See the responses to comments 4-1 and 4-17, which explain that the City is not seeking CWSRF financing or any other SWRCB grant funding for the proposed project.

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY Gavin Newsom, Governor

DEPARTMENT OF TRANSPORTATION
P.O. BOX 2048 STOCKTON, CA 95201
(1976 E. CHARTER WAY/1976 E. DR. MARTIN
LUTHER KING JR. BLVD. 95205)
TTY: California Relay Service (800) 735-2929
PHONE (209) 941-1921
FAX (209) 948-7194

Letter 5

Making Conservation a California Way of Life.

December 2, 2020

10-SJ-5-PM R015.27
SCH#2019110339
Lathrop Consolidated Treatment Facility
Surface Water Discharge Project

Michael King
City of Lathrop
390 Towne Center Drive
Lathrop, CA 95330

Dear Mr. King

The California Department of Transportation appreciates the opportunity to review the Draft Environmental Impact Report for the Lathrop Consolidated Treatment Facility (CTF) Surface Water Discharge Project. The project proposes the discharge of recycled water from the existing CTF to a proposed outfall location on the east side of San Joaquin River on Inland Passage Way north of Sadler Oak Road. The Department has the following comments: 5-1

- Further review of the plans is recommended since the pipe crosses the State right of way. An Encroachment Permit will be required for work done within the Department's right of way. This work is subject to the California Environmental Quality Act. Therefore, environmental studies may be required as part of the encroachment permits application. A qualified professional must conduct any such studies undertaken to satisfy the Department's environmental review responsibilities. Ground disturbing activities to the site prior to completion and/or approval of required environmental documents may affect the Department's ability to issue a permit for the project. Furthermore, if engineering plans or drawings will be part of your permit application, they should be prepared in standard units. 5-2

- Please submit a hydrology and hydraulic report to Caltrans District 10 for review. This report is required to determine any potential impacts to State facilities, including the nearby I-5 bridges. 5-3

- Any oversize vehicles that might be used in construction will require a permit through Caltrans Headquarters Transportation Permits. Instructions on how to apply can be found here: https://dot.ca.gov/programs/traffic-operations/transportation-permits/how-to-apply 5-4

If you have any questions or would like to discuss our comments in more detail, please contact Nicholas Fung at (209) 948-7190 or myself at (209) 941-1921. 5-5

Sincerely,

Nicholas Fung

FOR

TOM DUMAS, CHIEF
OFFICE OF METROPOLITAN PLANNING

"Caltrans improves mobility across California"

Letter 5 California Department of Transportation

Tom Dumas, Chief
December 2, 2020

5-1 The comment includes an introduction to the comment letter and summarizes the proposed project. No response is necessary.

5-2 The comment suggests that the proposed project would involve construction in a state right-of-way (ROW), which would require environmental studies as part of an encroachment permit application. This is not correct. The part of the project site between Harlan Road and Inland Passage Way includes a state ROW, but no construction activities are proposed in this location. The portion of the project alignment in the state ROW includes existing pipelines that the proposed project intends to use. For the reasons described above, there would be no need to obtain an encroachment permit from the state and conduct any supporting studies. However, if changes to the project are later proposed that would involve construction in the state ROW, the City would perform the necessary environmental studies and apply for and obtain an encroachment permit from Caltrans before any ground-disturbing activities within Caltrans ROW.

5-3 The comment requests that the City submit a hydrology and hydraulic report to Caltrans District 10 for review. The application package that was submitted to the Central Valley Flood Protection Board for the Title 23 encroachment permit and Section 408 categorical permission included a screening analysis that demonstrates that the net impact on the in-channel cross-section area for the outfall structure would be 0.23 percent at the design floodplain and that the peak discharge of treated flow into the San Joaquin River would be 0.03 percent of the design flood flow. Impacts on the San Joaquin River during flood conditions at the project location, located approximately 3,000 feet downstream from the Interstate 5 overpass, would be negligible. A copy of the analysis prepared for the Central Valley Flood Protection Board will be provided to Caltrans District 10. The analysis demonstrates that the project would not result in any impacts to Caltrans facilities.

5-4 The comment notes that oversized vehicles used in construction of the proposed project would be required to obtain a permit through Caltrans Headquarters Transportation Permits. The City would obtain any necessary permits related to use of oversized vehicles during construction.

5-5 The comment provides closing remarks and includes contact information. No response is necessary.

STATE OF CALIFORNIA GAVIN NEWSC

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

JENNIFER LUCCHESI, *Execu*
(916) 574-1800 *Fax* (916
California Relay Service TDD Phone 1-800-735-2929
from Voice Phone 1-800-735-2922

Contact Phone: **(916) 574-1890**

Letter 6

Established in 1938

December 3, 2020

File Ref: SCH # 2019110339

Michael King
Director of Public Works
City of Lathrop
390 Towne Centre Drive
Lathrop, CA 95330

VIA ELECTRONIC MAIL ONLY (mking@ci.lathrop.ca.us)

Subject: Draft Environmental Impact Report (EIR) for Lathrop Consolidated Treatment Facility (CTF) Surface Water Discharge Project, San Joaquin County

Dear Mr. King:

The California State Lands Commission (Commission) staff has reviewed the subject Draft EIR for the Lathrop Consolidated Treatment Facility Surface Water Discharge Project (Project), which is being prepared by the city of Lathrop (City). The City, as the agency that oversees the Consolidated Treatment Facility (CTF) and the public agency proposing to carry out the Project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The Commission is a trustee agency for projects that could directly or indirectly affect sovereign land and its accompanying Public Trust resources or uses. Additionally, because the Project involves work on sovereign land, the Commission will act as a responsible agency. Commission staff requests that the City consult with us on preparation of the Draft EIR as required by CEQA section 21153, subdivision (a), and the State CEQA Guidelines section 15086, subdivisions (a)(1) and (a)(2). 6-1

Commission Jurisdiction and Public Trust Lands

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6009, subd. (c); 6009.1; 6301; 6306). All tidelands and submerged lands granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust Doctrine. 6-2

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the state for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

As previously mentioned in our letter dated December 17, 2019, Commission staff determined that the San Joaquin River at this location, over which a portion of the Project will extend, includes State-owned sovereign land. It is important to note that the Commission has a lease in this vicinity with Califia, LLC, a California Limited Liability Company. On June 19, 2014, the Commission authorized the issuance of a 25-year General Lease – Right-of-Way Use, Lease No. PRC 2854.1, for the continued maintenance of an existing non-operational 20-inch drainage outlet. A lease from the Commission will be required for the portion of the Project encroaching on State-owned lands. Please contact George Asimakopoulos, Public Land Management Specialist (see contact information below) for further information on the extent of the Commission's jurisdiction and lease application requirements.

6-2 cont.

Project Description

The City is proposing to establish a direct discharge of CTF-generated and dechlorinated disinfected, tertiary-treated effluent to the San Joaquin River for use when generation of treated CTF effluent would exceed the capacity of the City's recycled water system to store and reuse treated effluent for landscape irrigation. The majority of CTF effluent would be discharged to the San Joaquin River during winter, when irrigation demands are low and river flow is relatively high, and less would be discharged during the irrigation season, when reuse of CTF-recycled water would be maximized for landscape irrigation. This approach would allow land designated under the general plan for urban uses to be developed in accordance with the plan.

The 2013 CTF Initial Study/Mitigated Negative Declaration considered all impacts related to the construction and operation of the expanded CTF using land disposal, but it did not evaluate impacts associated with modification of the CTF to dechlorinate treated effluent and discharge that effluent to the San Joaquin River. This Draft EIR analyzes impacts associated with the construction and operation of the proposed dechlorination system, effluent pipeline, and outfall. Project objectives include:

6-3

- Providing for planned City buildout and development based on the City's General Plan by providing effluent discharge to the San Joaquin River
- Providing efficient and cost-effective wastewater services through buildout of the City
- Maximizing use of recycled water in the City presently and in the future

From the Project Description, Commission staff understands that the Project would include the following components that have potential to affect State-owned sovereign land:

- Installation of sheet pile coffer dam
- Installation of a new effluent discharge outfall

6-3 cont.

Per the Draft EIR, the proposed Project would be the environmentally superior alternative.

Environmental Review

Commission staff requests that the City consider the following comments when preparing the Final EIR to ensure that impacts to State-owned sovereign land are adequately analyzed for the Commission's use of the EIR to support a future lease approval for the Project.

General Comments

6-4

1. As noted above, the Commission has a lease in this vicinity with Califia, LLC (Lease No. PRC 2854.1) for continued maintenance of an existing non-operational 20-inch drainage outlet in the vicinity of the Project. Commission staff request clarification as to why this existing outfall was not considered as an alternative to the proposed Project, as its use would likely result in reduced environmental impacts.

Recreation

2. Under section 3.1.2, *Effects Found Not to Be Significant,* it was determined that the proposed Project would have no impact on recreation; however, the Draft EIR should include a section describing the potential for the Project to affect recreational uses and public access to the San Joaquin River. The Draft EIR should discuss recreational uses and access points in the Project vicinity, whether and to what extent these uses would be facilitated or disrupted by the Project, and what, if any, measures could be implemented by the City to reduce any potential negative impacts. This discussion should also identify any safety measures the City will put in place to ensure public safety for recreational activities in the area. Measures could include a public notice and Project area signage provided in advance of the Project, notifying the public of any disruptions or creation of alternate access points or use areas during construction.

6-5

Aquatic Biological Resources

3. On page 3.4-25, the Draft EIR provides an example of a project in Fort Bragg conducted in 2015 to illustrate the likely underwater noise levels for the proposed Project during sheet pile installation. Although the two projects may be similar, it is unknown what equipment or procedures were used for the Fort Bragg project; therefore, Commission staff cannot assume that the peak sound pressures in the

6-6

water of 170 to 174 dB are representative of the proposed Project. Commission staff requests additional information on the Fort Bragg project cofferdam installation and whether environmental conditions at the Fort Bragg site are similar to those at the Project site. River depth, sediment type, and salinity can impact sound propagation, which would affect the noise levels at various distances from the cofferdam/pile driving source. 6-6 cont

Cultural Resources

4. The Draft EIR proposes Mitigation Measure (MM) 3.5-2 to address inadvertent discoveries of archeological resources. The title to all archaeological sites and historic or cultural resources on or in the tide and submerged lands of California is vested in the state and under the jurisdiction of the Commission (Pub. Resources Code, § 6313). Commission staff requests that the following statement be added to MM 3.5-2: "The final disposition of archaeological, historical, and paleontological resources recovered on State lands under the jurisdiction of the California State Lands Commission must be approved by the Commission." 6-7

Hydrology and Water Quality

5. Impact 3.9-1 (p. 3.9-13) states that the proposed Project would require regulatory permits from the U.S. Corps of Engineers, the Regional Water Quality Control Board, and the California Department of Fish and Wildlife, and that these permits would contain best management practices and measures that would avoid and minimize impacts to water quality. Therefore, the impacts were found to be less than significant, and no MMs were required.

   In order to avoid the improper deferral of mitigation, MMs must be specific, feasible, and fully enforceable to minimize significant adverse impacts from a project, and "shall not be deferred until some future time." (State CEQA Guidelines, §15126.4, subd. (a)). For example, references to obtaining permits from regulatory agencies to reduce an impact, without calling out the specific activities in the Draft EIR to reduce that particular impact to a less than significant level, may be considered deferral. Commission staff suggest that Impact 3.9-1 be reanalyzed and if best management practices or measures are required to reduce the impact to a less than significant level, that they are clearly detailed as part of the Project plans or called out as MMs. 6-8

Thank you for the opportunity to comment on the Draft EIR for the Project. As a responsible and trustee agency, the Commission will need to rely on the Final EIR for the issuance of any lease as specified above and, therefore, we request that you consider our comments prior to certification of the EIR. Please send copies of future Project-related documents, including electronic copies of the Final EIR, Mitigation Monitoring and Reporting Program, Notice of Determination, CEQA Findings and, if applicable, Statement of Overriding Considerations when they become available. 6-9

Michael King Page 5 December 3, 2020

Please refer questions concerning environmental review to Cynthia Herzog, Senior Environmental Scientist, at (916) 574-1310 or cynthia.herzog@slc.ca.gov. For questions concerning archaeological or historic resources under Commission jurisdiction, please contact Staff Attorney Jamie Garrett, at (916) 574-0398 or jamie.garrett@slc.ca.gov. For questions concerning Commission leasing jurisdiction, please contact George Asimakopoulos, Public Land Management Specialist, at (916) 574-0990 or george.asimakopoulos@slc.ca.gov. 6-9 cont.

Sincerely,

Nicole Dobroski, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
C. Herzog, Commission
G. Asimakopoulos, Commission
J. Garrett, Commission

Letter 6 California State Lands Commission

Nicole Dobroski, Chief
December 3, 2020

6-1 The City acknowledges that CSLC is a trustee agency and may be a responsible agency for the proposed project. In compliance with Section 15086(a)(1) and (a)(2), the City provided a copy of the Draft EIR for the proposed project to CSLC for review and comment during the 45-day public review period. Responses to comments provided by CSLC on the Draft EIR are provided below. This comment does not address the adequacy, accuracy, or completeness of the Draft EIR, and no further response is necessary.

6-2 The City is aware of the existing lease between CSLC and Califia, LLC (Lease No. PRC 2854.1) for the continued maintenance of the nonoperational 20-inch drainage outlet. Since release of the notice of preparation (NOP), which identified this site as the proposed outfall location for the proposed project, and on which CLSC's December 17, 2019, comment letter was based, the proposed outfall location has been changed. The outfall location identified in the Draft EIR is approximately 500 feet downstream from the location identified in the NOP. If the current proposed outfall location includes state-owned sovereign land, the City would apply for a new lease from CSLC, as required. The City will contact George Asimakopoulos, public land management specialist, for further information on the extent of CSLC's jurisdiction within the project site, specifically the current proposed outfall location.

6-3 The comment provides a summary of the proposed project. No response is necessary.

6-4 The results of modeling performed during the outfall design process determined that the bathymetry at the location of the nonoperational 20-inch outlet maintained by Califia, LLC, would not allow for mixing of the treated effluent that would be adequate to meet Central Valley RWQCB and NMFS requirements for protection of fish and other aquatic resources. This location was found to result in greater environmental impacts and for these reasons, was considered infeasible. Therefore, this location was eliminated from consideration.

6-5 Referencing Section 3.1.2, "Effects Found Not to Be Significant," of the Draft EIR, where recreation impacts are addressed, the comment states that the Draft EIR should include a section describing the potential for the project to affect recreational uses and public access to the San Joaquin River. The new outfall on the San Joaquin River would not be located in an area with extensive recreation. Although fishing occurs along the river nearby the project site, implementation of the proposed project would not meaningfully reduce opportunities for people to fish. The proposed project would include a new outfall structure that would be surrounded by 100 linear feet (4,500 square feet [sq. ft.]) of erosion protection material (e.g., articulated concrete block, riprap) above and below the headwall and extending upstream and downstream of the outfall to prevent scour. The amount of riverbank near the project site that is available for fishing or for visiting the river is extensive, and the new outfall structure would not reduce those opportunities; it would simply remove a very limited area from access to the river and riverbank. This would not meaningfully reduce the overall area available for recreational use, such as fishing. As part of implementation of the proposed project, the City may choose to install signage to deter people from climbing on the outfall structure and address any other potential trespassing concerns.

6-6 The comment requests additional information on the Fort Bragg project cofferdam installation, which is included in the *Technical Guidance for Assessment and Mitigation of the Hydroacoustic Effects of Pile Driving on Fish* report (Caltrans 2015) (see page 3.4-25 under Impact 3.4-1 in Section 3.4, "Aquatic Biological Resources," in the Draft EIR), including the equipment or procedures that were used, in order to assess the applicability of the peak sound pressures in the water for that project (170–174 decibels) to the proposed project.

The following information was referenced in the Draft EIR from *Technical Guidance for Assessment and Mitigation of the Hydroacoustic Effects of Pile Driving on Fish* (Caltrans 2015:I-247 and Table I.13-2):

> Construction of the cofferdams consisted of driving four "spud" piles (H-pile) and a series of 2-foot-wide sheet piles. The sheet piles were installed using a vibratory pile driver only, and there was no attenuation used. Underwater noise levels were measured during installation of sheet piles....

Approximately 14 H-piles and 171 sheet piles were monitored on 17 days April 6, 2007–July 26, 2007. The peak sound pressure levels and RMS levels were measured.

The proposed project also involves installing sheet piles using a vibratory pile driver technique; thus, it is believed that the peak sound pressures recorded for the Fort Bragg project are a reasonable approximation of the peak sound pressures that would likely occur during construction of the proposed project. No characteristics of the proposed project site (e.g., depths, sediment type, salinity) suggest that peak sound pressures would be notably higher than those cited the Fort Bragg project.

6-7 The comment states that archaeological sites and historic or cultural resources on or in the tide and submerged lands of California are under the jurisdiction of CSLC and requests that Mitigation Measure 3.5-2 be revised to reflect that jurisdiction. In response to this comment, Mitigation Measure 3.5-2 is revised. This change is presented in Chapter 3, "Revisions to the Draft EIR," in this Final EIR. The revision clarifies CSLC jurisdiction relative to previously unrecorded archaeological resources inadvertently discovered during project-related ground disturbance; thus, the change does not alter the conclusions with respect to the significance of any environmental impact.

New text is added to Mitigation Measure 3.5-2 in Table ES-1 in the "Executive Summary" chapter of the Draft EIR on page ES-17 as follows:

Impact 3.5-2: Cause a Substantial Adverse Change in the Significance of Archaeological Resources Although no archaeological resources have been identified on the project site, project-related ground-disturbing activities could result in the discovery or damage of previously undiscovered archaeological resources as defined in State CEQA Guidelines Section 15064.5. This would be a potentially significant impact.	PS	**Mitigation Measure 3.5-2: Implement Inadvertent Discovery Measures for the Protection of Archaeological Resources** If any prehistoric or historic-era subsurface archaeological features or deposits, including locally darkened soil ("midden"), that could conceal cultural deposits are inadvertently discovered during project-related construction activities, all ground-disturbances within a minimum of 50 feet of the find shall be halted until a qualified professional archaeologist can evaluate the discovery. The archaeologist shall examine the resources, assess their significance, and recommend appropriate procedures to the lead agency to either further investigate or mitigate adverse impacts (e.g., adverse effect on a significant historical resource). If the qualified archaeologist determines the archaeological material to be Native American in nature, the City shall contact the appropriate California Native American tribe <u>(i.e., Buena Vista Rancheria Me-Wuk Indians and North Valley Yokuts Tribe)</u> for their input on the preferred treatment of the find. If the find is determined to be a unique archaeological resource and it cannot be avoided, then appropriate procedures to protect the integrity of the resource shall be applied (e.g., preservation in place, data recovery program pursuant to PRC Section 21083.2[i]). During evaluation or mitigative treatment, ground-disturbance and construction work may continue on other parts of the project site. <u>The California State Lands Commission (CSLC) shall approve the final disposition of any archaeological, historical, and paleontological resources recovered on state lands under CSLC jurisdiction.</u>	LTS

New text is added to Mitigation Measure 3.5-2 on page 3.5-14 in Section 3.5, "Cultural, Tribal Cultural, and Paleontological Resources," in the Draft EIR as follows:

> **Mitigation Measure 3.5-2: Implement Inadvertent Discovery Measures for the Protection of Archaeological Resources**
>
> If any prehistoric or historic-era subsurface archaeological features or deposits, including locally darkened soil ("midden"), that could conceal cultural deposits are inadvertently discovered during project-related construction activities, all ground-disturbances within a minimum of 50 feet of the find shall be halted until a qualified professional archaeologist can evaluate the discovery. The archaeologist shall examine the resources, assess their significance, and recommend appropriate procedures to the lead agency to either further investigate or mitigate adverse impacts (e.g., adverse effect on a significant historical resource). If the qualified archaeologist determines the archaeological material to be Native American in nature, the City shall contact the appropriate California Native American tribe (i.e., Buena Vista Rancheria Me-Wuk Indians and North Valley Yokuts Tribe) for their input on the preferred treatment of the find. If the find is determined to be a unique archaeological resource and it cannot be avoided, then appropriate procedures to protect the integrity of the resource shall be applied (e.g., preservation in place, data recovery program pursuant to PRC Section 21083.2[i]). During evaluation or mitigative treatment, ground-disturbance and construction work may continue on other parts of the project site. The California State Lands Commission (CSLC) shall approve the final disposition of any archaeological, historical, and paleontological resources recovered on state lands under CSLC jurisdiction.

6-8 The comment correctly notes that the discussion of Impact 3.9-1 (see page 3.9-13 in Section 3.9, "Hydrology and Water Quality," in the Draft EIR) states that the proposed project would require regulatory permits from USACE, the Central Valley RWQCB, and the California Department of Fish and Wildlife and that these permits would include BMPs and measures that would avoid and minimize impacts on water quality. However, according to the comment, the analysis references obtaining permits from regulatory agencies without identifying the specific actions that would be required by those permits to reduce a particular impact to a less-than-significant level, and suggests that BMPs and measures required to avoid or minimize impacts to water quality be clearly detailed in the analysis or included as mitigation measures to avoid deferral of mitigation.

On January 3, 2019, the California Natural Resources Agency promulgated a number of changes to the state guidelines for implementing CEQA, including changes related to deferred mitigation. The changes to the guidelines on deferred mitigation clarify that deferral may be appropriate as part of a future regulatory process if compliance is mandatory and substantial evidence confirms that the regulatory process would achieve the requisite performance standards. The guidelines also provide that deferral may be appropriate if another regulatory agency is required to issue a permit for the project and that agency is expected to impose mitigation requirements independent of the CEQA process.

The analysis in the Draft EIR explains that before the outfall can be constructed within the river channel, the City must obtain a CWA Section 404 permit from USACE and a Section 401 WQC from the Central Valley RWQCB. The CWA WQC must be obtained (before construction in waters of the State), the agency from which it is to be issued is known (Central Valley RWQCB), and what it will require is identified generally (i.e., storm water pollution prevention plan [SWPPP] and construction BMPs that would prevent the project from exceeding water quality objectives at levels and for durations that could adversely affect designated beneficial uses of the San Joaquin River). For projects required by law to obtain regulatory permits, it is appropriate to fully consider the permitting conditions and performance standards of permitting agencies when assessing project impacts. This provides a more realistic construction scenario that can then be accurately assessed for water quality changes and resultant impacts, if any, as analyzed in the Draft EIR. Similarly, on page 3.9-13 of the Draft EIR, contaminants entering the river are specifically assessed, and the regulatory permits to be obtained before construction are identified. Moreover, the Draft EIR states, based

on the known requirements of the permits, that the City and/or its construction contractor would be required to prepare a SWPPP and implement appropriate construction BMPs for all activities that may result in the discharge of construction-related contaminants from disturbed construction areas. However, the analysis is revised to clarify and amplify the measures in the SWPPP, including potential BMPs, BMP inspection and monitoring activities, responsibilities of all parties, contingency measures, agency contacts, and training requirements and documentation for those personnel responsible for the installation, inspection, maintenance, and repair of construction BMPs.

With these clarifications, the impact analysis for Impact 3.9-1 identifies specific measures that are both feasible and fully enforceable by identified responsible agencies as part of the normal regulatory process. Measures necessary to ensure that the water quality impacts of the proposed project would be less than significant have not been deferred to uncertain parties or to an unknown time in the future. The measures identified would ensure that the construction-related water quality impacts of the project would be less than significant.

In response to the comment, new text is added to the summary of Impact 3.9-1: Result in Impacts on Water Quality during Project Construction on page 3.9-11 in Section 3.9, "Hydrology and Water Quality," as follows:

Impact 3.9-1: Result in Impacts on Water Quality during Project Construction

Project construction activities would have the potential to result in a temporary increase in San Joaquin River total suspended solids (TSS) and turbidity near the construction site and the release of contaminants into the river. Implementation of a SWPPP and associated BMPs in compliance with various permit requirements, including SWRCB Construction General Permit requirements and CWA Section 401 Water Quality Certification requirements, which would be required for project construction, would avoid and minimize potential adverse construction-related effects on surface water quality. Therefore, this impact would be **less than significant**.

Also in response to the comment, new text is added to the discussion of Impact 3.9-1 after the second paragraph under the heading, "Effects on Water Quality: Contaminants" on page 3.9-13 in Section 3.9, "Hydrology and Water Quality," as follows:

Effects on Water Quality: Contaminants

Potential sources of contaminant discharges would be the discharge of supernatant from dewatering behind the coffer dam and the use of motorized equipment on and around the levee to install the new effluent pipeline and outfall.

The proposed project would require a CWA Section 404 permit, a CWA Section 401 Water Quality Certification, and notification of a California Fish and Game Code Section 1600 Streambed Alteration Agreement before construction of the pipeline and outfall on the waterside of the levee could occur. The construction work also would be subject to authorization under the SWRCB NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ/NPDES Permit No. CAS000002, as amended by 2010-0014-DWQ and 2012-0006-DWQ). Therefore, the City and/or its construction contractor would be required to prepare a SWPPP and implement appropriate construction BMPs for all activities that may result in the discharge of construction-related contaminants from disturbed construction areas.

The SWPPP would include pollution prevention measures (erosion and sediment control measures and measures to control non-stormwater discharges and hazardous spills); demonstration of compliance with all applicable Central Valley RWQCB standards and other applicable water quality standards; demonstration of compliance with regional and local standards for erosion and sediment control; identification of responsible parties; checklists that document when maintenance inspections occurred, the results of the inspection, required corrective measures, and when corrective measures were implemented; detailed construction timelines; and a BMP monitoring and maintenance schedule.

BMPs would be expected to include the following measures: conducting all work according to site-specific construction plans that identify areas for clearing, grading, and revegetation so that ground disturbance is minimized; installing silt fences near riparian areas or existing drainages to control erosion and trap sediment and reseed cleared areas with native vegetation; stabilizing disturbed soils before the onset of the winter rainfall season; stabilizing and protecting soil stockpiles from exposure to rain and potential erosion; conducting maintenance on a regular basis to confirm proper installation and function of BMPs, and during storm events conduct maintenance daily; and immediately repairing and replacing BMPs that have failed (within 48 hours of the storm event) with sufficient devices and materials (e.g., silt fence, coir rolls, erosion blankets) provided throughout project construction to enable immediate corrective action for failed BMPs.

The SWPPP also would specify appropriate hazardous materials handling, storage, and spill response practices to reduce the possibility of adverse effects from use or accidental spills or releases of contaminants. Such measures could include developing and implementing strict on-site handling rules to keep potentially contaminating construction and maintenance materials out of drainages and other waterways; conducting all refueling and servicing of equipment with absorbent material or drip pans underneath to contain spilled fuel, oil, and other fluids; and collecting any fluid drained from machinery during servicing in leak-proof containers and delivering to an appropriate disposal or recycling facility; maintaining controlled construction staging and fueling areas away from channels or wetlands to minimize accidental spills and runoff of contaminants in stormwater; preventing substances that could be hazardous to aquatic life from contaminating the soil or entering watercourses; maintaining spill cleanup equipment in proper working condition; and cleaning up all spills immediately according to a spill prevention and response plan.

BMPs would be applied to meet the "maximum extent practicable" and "best conventional technology/best available technology" requirements and to address compliance with water quality standards.

Implementation of appropriate erosion control and pollution prevention BMPs would avoid and minimize construction-related erosion and contaminant discharges. In addition to the BMPs, the SWPPP would include BMP inspection and monitoring activities and would identify the responsibilities of all parties, contingency measures, agency contacts, and training requirements and documentation for those personnel responsible for the installation, inspection, maintenance, and repair of BMPs. The CWA Section 401 Water Quality Certification also would require implementation of measures to prevent, minimize, and contain spills and minimize the amount of soil, sediment, and trash that enters surface waters.

6-9 The comment provides closing remarks, includes contact information, and requests that copies of the Final EIR, mitigation monitoring and reporting program, notice of determination, and CEQA findings be provided to CSLC. The City will provide these documents when they become available.

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
650 Capitol Mall, Suite 5-100
Sacramento, California 95814-4700

Letter 7

December 4, 2020

Mr. Michael King, P.E.
Director of Public Works
390 Towne Center Drive
Lathrop, California 95330

Re: Comments to the Notice of Availability of the Draft Environmental Impact Report for the Lathrop Consolidated Treatment Facility Surface Water Discharge Project

Electronic transmittal only

Dear Mr. King:

Thank you for requesting agency participation in the review of the October 20, 2020, Notice of Availability for the draft Environmental Impact Report (NOA-dEIR) for the Lathrop Consolidated Treatment Facility (CTF) Surface Water Discharge Project (Project)(State Clearinghouse No. 2019110339) adjacent to the Town of Lathrop in San Joaquin County, California. NOAA's National Marine Fisheries Service (NMFS) welcomes the opportunity to comment on this project.

Based on the information provided with your NOA-dEIR, the proposed Project is located in the City of Lathrop (City). Elements of the proposed Project would be constructed (1) at the City's existing CTF, located on 54 acres of City-owned land at 18800 Christopher Way, Lathrop, CA; (2) along roadways in Lathrop between the CTF and the San Joaquin River, including Tesla Way, Harlan Road, and Inland Passage Way; and (3) along the right bank of the San Joaquin River, approximately 0.7 mile downstream of the I-5 overcrossing, at approximately river mile (RM) 55.8.

7-1

The City is proposing to establish a direct discharge of CTF-generated and dechlorinated disinfected tertiary treated effluent to the San Joaquin River for use when generation of treated CTF effluent would exceed the capacity of the City's recycled water system to store and reuse treated effluent for landscape irrigation. The majority of CTF effluent would be discharged to the San Joaquin River during winter, when irrigation demands are low and river flow is relatively high, and less would be discharged during the irrigation season, when reuse of CTF recycled water would be maximized for landscape irrigation. This approach would allow land designated under the general plan for urban uses to be developed in accordance with the general plan.

The City intends to obtain an initial National Pollutant Discharge Elimination System (NPDES) permit to discharge up to 2.5 mgd average dry weather flow (ADWF) of dechlorinated treated effluent (current ADWF treatment capacity of the CTF) to the San Joaquin River. However, to accommodate buildout of the City and account for potential cumulative development under the

general plan, the analysis in the dEIR evaluates the environmental impacts of wastewater generation and discharge of up to 2.5 and 5.2 mgd ADWF to the San Joaquin River under the proposed Project, and considers the incremental contribution of future cumulative wastewater generation and discharge to the San Joaquin River of up to 6 mgd ADWF. 7-1 cont.

The component of the Project that most impacts NMFS' trust fish species is the construction of the CTF outfall on the San Joaquin River and its future operation. The proposed CTF outfall would be located along the right bank of the San Joaquin River on the waterside of an existing State Plan of Flood Control and Federal Flood Control Project levee maintained by RD 17. Construction of the proposed effluent pipeline across the levee and the new side-bank outfall would include the following:

- Install approximately 250 linear feet (LF) of new 20-inch welded steel pressurized pipe in an approximately 16-foot-wide trench excavated through the levee seepage berm and levee prism above the 200-year water surface elevation from the levee toe to the proposed outfall on the waterside of the levee.
- Extend the new 20-inch pipe to the river, and construct a new concrete-encased outfall structure approximately 19–20 feet below the mean lower low water level and above the channel bed of the San Joaquin River at approximately RM 55.8 to create a new side-bank outfall. The elevation of the pipe at the outfall location would be set to ensure discharge of effluent that is sufficiently low in the water column to achieve adequate mixing with river water such that an increase in ambient surface water temperature of no more than 4 degrees Fahrenheit would be observed at any time during the year. 7-2
- Install approximately 100 LF of erosion protection material (e.g., articulated concrete block, riprap) along the levee waterside face both above and below the headwall and extending upstream and downstream of the outfall to prevent scour. The protected area would encompasses a total area of 4,500 square feet of levee face both above and below the waterline.

Construction along the east bank of the San Joaquin River would take place between July 1 and November 1. Construction would occur on weekdays between 7 a.m. and 5 p.m. The pipeline crossing of the levee and construction of the outfall is anticipated to take 8 weeks. A temporary cofferdam will be installed at the outfall location to allow for in-the-dry construction and subsequently removed following completion of construction prior to November 1. Sheet piles will be installed and removed with a vibratory pile driving hammer.

The effects of the effluent discharge from the CTF were modeled and the results included in the dEIR. As part of the dEIR, the impacts of the effluent discharge were assessed for Aquatic Biological Resources.

NMFS has reviewed the NOA-dEIR from the City of Lathrop and wishes to provide these general comments: 7-3

1. The discharge of treated effluent from the CTF to the waters of the San Joaquin River will potentially impact Central Valley (CV) spring-run Chinook salmon and CV fall-run Chinook salmon (*Oncorhynchus tshawytscha*), California CV (CCV) steelhead (*O.*

mykiss), and the southern distinct population segment (sDPS) of North American green sturgeon (*Acipenser medirostris*). CV spring-run Chinook salmon, CCV steelhead, and sDPS green sturgeon, are listed as threatened under the Endangered Species Act (ESA). In addition, the discharge of effluent from the outfall may affect designated critical habitat under the ESA for both CCV steelhead and sDPS green sturgeon in the San Joaquin River at the location of the outfall. Finally, essential fish habitat (EFH) designated under the Magnuson-Stevens Fishery Conservation and Management Act exists in the San Joaquin River and may be affected by the discharge of the treated effluent and presence of the outfall structure. 7-3 cont.

2. The proposed outfall is a new discharge of treated waste water to the San Joaquin River. Thus, any impacts from the discharge of this effluent to the aquatic system would not occur except for the proposed project's existence. At best, the impacts to the aquatic system related to the effluent discharge to the San Joaquin River would be neutral, but would more likely have potentially negative effects, even if such impacts are considered to be minor. The dEIR does not indicate that there are any beneficial or positive impacts associated with the discharge of the effluent. 7-4

3. The location of the proposed outfall is on an outside bend of the San Joaquin River at approximately RM 55.8. The river's natural thalweg is located at the foot of the eastern bank, adjacent to the location of the proposed outfall. The depth of the outfall structure and the centerline of the effluent pipe [approximately -12 feet North American Vertical Datum 1988 (NAVD 88)] are within 5 feet of the channel bottom (-17.0 feet NAVD88; see Figure 3.9-1 of the dEIR). The width of the thalweg channel is approximately 40 feet at this depth before encountering the opposite side of the river channel, which rapidly shoals towards the western bank. This leaves little margin for unhindered fish passage beneath the effluent plume at the point of discharge, which has the potential to temporarily inhibit upstream movement of adult Chinook salmon (CV fall-run and CV spring-run), CCV steelhead, and movements of juvenile and adult sDPS green sturgeon utilizing the thalweg as a migratory route. Adult salmonids and multiple life stages of green sturgeon prefer to utilize the deeper portions of the river channel (i.e., thalweg) to migrate. In addition, flow along the outside bend of the river channel will experience turbulent mixing of the nearshore water body. This is due to the hydrodynamic forces present along the margin of the river channel where the ambient direction of the river flow moves at an angle towards the bank and encounters the friction of the underlying river channel bank. This causes a helical circulation pattern along the eastern bank of the San Joaquin River. This mixing is likely to reduce the zone of fish passage beneath the effluent plume which was modeled using a simple trapezoidal channel form in CORMIX (and does not adequately represent the complex mixing present in the natural channel). 7-5

4. In addition to the location of the thalweg adjacent to the outfall location, the river channel bends to the west-southwest approximately 280 meters downstream of the proposed outfall location before bending back upon itself forming an "S" shaped curvature in the river alignment. This creates another complex circulation pattern that is not modeled by the simple linear channel used in CORMIX. The circulation pattern at this point should fully mix the effluent plume across the width of the channel and throughout the water 7-6

column. This would prevent any fish moving upstream from finding a migratory pathway through this river reach which avoids the effluent plume. Any fish encountering the fully mixed plume may experience sensory cues that would inhibit or delay migration through avoidance behavior associated with the plume. These cues may include chemical constituents or physical parameters such as temperature. Although fish exposed to the temperature gradients or chemical constituents created by the plume are unlikely to experience significant adverse physiological responses (as described in the dEIR), they will be exposed to conditions that can create behavioral modifications and cause increases in predation risks due to alterations in their behavior. 7-6 cont.

5. For fish encountering the effluent plume, sensitivity to water temperatures is likely to make fish seek out preferred water temperatures within the channel cross section and avoid those temperatures that are less acceptable. This may lead to temporary inhibition of migration behavior. Fish may either eventually move through the plume after a delay, or seek out an alternative route with acceptable temperature regimes. In either case, delayed fish have a greater risk of predation when forced to move away from their preferred habitat (particularly juvenile life stages) due to a longer period of exposure to predation, or moving into portions of the river channel either laterally or vertically where they are more vulnerable to predators. In the case of juveniles, fish would likely move away from the bank in response to the plume's location along the eastern bank, or move higher in the water column due to the temperature gradient or the effects of the effluent's more buoyant warm water moving towards the surface. Juvenile fish moving away from the bank into open water are susceptible to open water predators such as striped bass (*Morone saxatilis*). Fish moving closer to the surface are also more vulnerable to avian predation. 7-7

6. The construction of the concrete outfall creates artificial underwater structure that can provide habitat for predatory fish that will associate with underwater structure, such as largemouth bass (*Micropterus salmoides*). The proposed design calls for a 10 foot by 10 foot concrete sill, with wing walls and a back headwall extending up to 9 feet above the sill. The effluent discharge pipe exits the back concrete headwall. This artificial structure would provide velocity refugia for predators from river currents sweeping across the adjacent rip-rapped levee face. 7-8

7. The proposed outfall also includes installation of approximately 100 linear feet of erosion protection material (e.g., articulated concrete block, riprap) above and below the headwall and extending upstream and downstream of the outfall to prevent scour. This covers an area of approximately 4,500 square feet. This scour protection permanently removes the levee bank and underwater slope from functioning as a natural riverine bank with both riparian habitat and subsurface habitat and precludes any future restoration of this stretch of river bank unless the scour protection materials are removed. 7-9

8. The proposed construction window of July 1 through November 1 for the installation of the outfall avoids most of the listed fish species under NMFS' authority. However, the presence of juvenile and adult sDPS green sturgeon and adult CCV steelhead may still occur during this period. These different life stages of sDPS green sturgeon are present 7-10

5

within the Delta year-round, although the population densities in the San Joaquin River are considered to be quite low. Adult CCV steelhead typically begin migrating upstream in the San Joaquin River towards their spawning grounds starting in approximately mid-September. Thus, installation and removal of the cofferdam may expose these life stages to the effects of vibratory pile driving. However, the risk of exposure for these fish species is likely to be lower from July through August, compared to September and October. NMFS would recommend that installation of the cofferdam, construction of the outfall, and the removal of the cofferdam take place during the July and August time frame to avoid overlap with any of these fish to the greatest extent practicable. 7-10 cont.

9. Associated with the expansion and increased capacity of the proposed wastewater treatment plant, NMFS expects negative impacts to local water quality due to increased outputs of stormwater quantity with increased pollutant loads in relation to increased population growth and urbanization in the City of Lathrop. While the City of Lathrop has adopted a regional stormwater treatment plan (Multi-Agency Post-Construction Stormwater Standards Manual 2015) and has/will receive the necessary Clean Water Act permits for additional stormwater outputs associated with the population growth and development, NMFS still expects additional harm to its jurisdictional species and habitats from adverse stormwater effects, as the treatment and control methods proposed in the stormwater plans and permits will not sufficiently treat stormwater to levels that eliminate harm to the species and habitats. Metals, hydrocarbons, pesticides, pathogens, and tire wear particles are common urban contaminants introduced to aquatic ecosystems through non-point source stormwater discharges. Many conventional stormwater treatment and control practices have been found to be insufficient to avoid lethal and sub-lethal effects to NMFS jurisdiction species, however McIntyre et al. 2015 found that bioretention filtration of highway-sourced stormwater prevented the mortality of coho salmon while unfiltered stormwater quickly induced mortality at near 100% levels. 7-11

10. Previously, the City of Lathrop received ESA/EFH consultations from NMFS regarding the placement of two new stormwater outfalls in South and Central Lathrop through U.S. Army Corps of Engineer (USACE) permit approvals. NMFS would like to remind the City of Lathrop and USACE that in these formal consultations neither USACE nor the City of Lathrop received coverage for the incidental take of listed species or adverse modification to their critical habitats due to adverse stormwater discharge effects. NMFS highly encourages the City of Lathrop to incorporate stormwater treatment methods that infiltrate stormwater through soil media with organic matter to filter out toxic, vehicle-related pollutants and other contaminants that would otherwise lead to the incidental take of NMFS trust resources; or implement practices that would reduce stormwater volume discharge such as wide-spread use of pervious pavements and infiltration rain gardens, to the maximum extent practicable. 7-12

NMFS wishes to thank the City of Lathrop Public Works Department for the opportunity to offer comments and suggestions on the Lathrop CTF Surface Water Discharge Project NOA-dEIR. 7-13

6

Please contact Jeffrey Stuart at (916) 930-3607, or via e-mail at J.Stuart@noaa.gov if you have any questions concerning these comments, or require additional information. 7-13 cont.

Sincerely,

Erin Strange

Erin Strange
San Joaquin River Branch Chief
California Central Valley Office

CC: Copy to Chron File

References Cited:

McIntyre, J.K., J.W. Davis, C. Hinman, K.H. Macneale, B.F. Anulacion, N.L. Scholz, and J.D. Stark. 2015. Soil bioretention protects juvenile salmon and their prey from toxic impacts of urban stormwater runoff. Chemosphere 132: 213-219.

Multi-Agency Post-Construction Stormwater Standards Manual. Prepared by Larry Walker Associates for the cities of Lathrop, Lodi, Manteca, Patterson, Tracy, and San Joaquin County. June 2015. 291 pages. Available at: Multi-Agency Stormwater Manual.

Letter 7 National Oceanic and Atmospheric Administration, National Marine Fisheries Service

Erin Strange, San Joaquin River Branch Chief
December 4, 2020

7-1 The comment provides an introduction to the letter and summarizes the proposed project. No response is necessary.

7-2 This comment provides an accurate description of the proposed CTF outfall, including the location and main components, and an overview of the construction timing and methodology.

7-3 This comment accurately states that the discharge of treated effluent from the CTF to the waters of the San Joaquin River would potentially affect CV spring-run and fall-run Chinook salmon, California Central Valley (CCV) steelhead (*Oncorhynchus mykiss*), and the southern distinct population segment (sDPS) of North American green sturgeon (*Acipenser medirostris*)—all species listed as threatened under the ESA. It also may affect designated critical habitat for both CCV steelhead and sDPS green sturgeon and Essential Fish Habitat (EFH) designated under the Magnuson-Stevens Fishery Conservation and Management Act.

The Draft EIR provides an assessment of the proposed project's impacts on aquatic biological resources (including the ESA-listed species identified above) in Section 3.4, "Aquatic Biological Resources." It further provides a detailed assessment of the thermal effects of the proposed discharge on San Joaquin River fish and other aquatic biological resources, including the ESA-listed fishes above, in Appendix E, "Aquatic Biological Resources Thermal Effects Assessment."

In addition, the proposed project would require authorization by USACE under Section 404 of the CWA; therefore, a biological assessment (BA) has been prepared for the USACE that addresses the potential impacts of the proposed Project on CV spring-run Chinook salmon, CCV steelhead, the sDPS of North American green sturgeon, designated critical habitat for both CCV steelhead and sDPS green sturgeon, and EFH.

7-4 This comment accurately states that any impacts from the discharge of effluent to the aquatic system from the proposed new outfall would not occur except for the proposed project's existence and that the Draft EIR does not indicate that there are any beneficial or positive impacts associated with the discharge of the effluent. No response is necessary.

7-5 This comment accurately states that the proposed outfall would be located in the thalweg of the river, which is approximately 40 feet wide at the outfall location, and within approximately 5 feet of the channel bottom. The comment states that adult Chinook salmon (CV fall-run and CV spring-run salmon), CCV steelhead, and juvenile and adult sDPS green sturgeon prefer to use the thalweg as a migratory route and thus that their migration could be affected by the discharge of treated effluent from the proposed new outfall.

The primary design factor dictating outfall location and depth was the ability of the discharge to comply with SWRCB's temperature objectives contained within its *Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California* (Thermal Plan). More specifically, objective 5A(1)c states that "no discharge shall cause a surface water temperature rise greater than 4°F above the natural temperature of the receiving waters at any time or place." Achievement of this objective would help avoid significant adverse thermal effects to fish species. Hence, the outfall pipe for the CTF must be placed at an elevation in the river channel that would allow for the effluent temperature to attenuate as the warmer, buoyant effluent rises through the water column, spreading and mixing in the river channel such that the surface water temperature does not increase more than 4°F above the river background temperature at any time or place. Submerging the outfall at a depth as deep as practicable is recommended to maximize the length of time that the effluent plume is submerged and thereby to facilitate compliance with the Thermal Plan objectives.

Field bathymetry data of the San Joaquin River in the vicinity of the City's preferred discharge location were obtained and used to determine optimal locations for placement of the CTF outfall. A location approximately 420 feet downstream of the City's existing stormwater outfall was chosen based on Robertson-Bryan, Inc.'s

(RBI's) experience with river discharge outfalls, understanding of plume mixing dynamics, and conversation with a NMFS biologist as documented in Appendix E to the Draft EIR. This location was chosen based on its cross-sectional profile, which includes substantial depth on the eastern bank where the outfall structure will be placed. The channel bathymetry at this location promotes superior effluent mixing and provides better zones of passage around the effluent plume for migratory fish compared to the cross-section at the existing stormwater outfall structure and at other nearby locations.

The proposed effluent discharge would consist of two primary components with the potential to affect ESA-listed fishes, critical habitat, and EFH: a chemical constituent plume and a thermal plume.

Regarding potential impacts on migration from the chemical constituent plume, the NPDES permit would require the discharge to meet all federal criteria and state objectives for the protection of the designated beneficial uses of the San Joaquin River and Delta at the end of the discharge pipe. Therefore, because all beneficial uses, including cold freshwater habitat and warm and cold migration of aquatic organisms, would be protected as explained in the Report of Waste Discharge and Appendix E to the Draft EIR, potential impacts from the chemical constituent plume on migration would be less than significant, even with the proposed outfall located in the thalweg.

Section 3.4 of the Draft EIR assessed the potential thermal impacts of the effluent plume using two modeled conditions: a median case and a worst case. As shown in Figure 3.4-2 of the Draft EIR, the thermal plume during the median-case condition would remain attached to the east bank. The comment states that although the thermal plume is buoyant, the hydrodynamic forces present along the margin of the river channel would be likely to cause mixing that would reduce the zone of fish passage beneath the effluent plume. However, as noted in the Draft EIR, plume temperature would be rapidly attenuated within the initial 66 feet (20 meters) from the outfall pipe, to within about 1°F of the river background temperature. Adult fish immigrating through the plume at distances greater than about 66 feet (20 meters) from the outfall pipe would experience temperatures that are within about 1°F of the river background temperatures to which these fish are acclimated, which would result in no blockage or adverse thermal effects. Temperatures in the high 50s (°F) to low 60s (°F) are suitable for immigrating green sturgeon, steelhead, and spring-run Chinook salmon, which can migrate through the area in March. Similar assessments are provided for other months of the year in Appendix E of the Draft EIR.

Where the most rapid initial temperature attenuation occurs, within about 33–49 feet (10–15 meters) of the outfall, the plume would occupy a small portion of the water column, leaving the vast majority of the channel cross-section, including large portions of the thalweg, unaffected by the plume, which could be easily avoided by immigrating adult fish. Nevertheless, if immigrating green sturgeon, steelhead, spring-run Chinook salmon, or delta smelt swim through the plume within about 49 feet (15 meters) of the outfall pipe, where temperatures would be higher than river background temperatures, fish would pass through the small footprint of the plume that would exist there in a matter of seconds because the plume would be ≤16 feet (≤5 meters) in diameter this close to the outfall. Thus, even if mixing along the margin of the channel caused a reduction in the zone of passage on the bottom of the channel, thermal conditions would not be expected to affect the migration of ESA-listed fishes.

As shown in Figure 3-4.3 of the Draft EIR, the thermal plume during the worst-case condition would push straight across the channel toward the west bank. This would occur if there is insufficient river flow velocity in a downstream direction to "bend" the plume downstream, as is shown in the March median-case scenario, where river velocity was 1.49 feet per second. Because the temperature differential during the worst-case condition would be larger than during the median-case condition, the plume would be highly buoyant and would stay in the upper portion of the water column, leaving a large zone of passage underneath the plume, and because mixing would not occur near the channel margin, mixing would not be expected to reduce this zone of passage.

7-6 This comment states that the outfall would be located approximately 280 feet upstream of an "S" bend in the river and that this bend would create a "complex circulation pattern" that would result in full mixing of the effluent plume across the width of the channel and throughout the water column, preventing any fish moving upstream from finding a migratory pathway through this river reach that avoids the effluent plume. The comment goes on to state that any fish encountering the fully mixed plume may experience sensory cues that would inhibit or delay migration through avoidance behavior associated with the plume.

As stated in the response to comment 7-5, above, the proposed project's NPDES permit would require the discharge to meet all federal criteria and state objectives for the protection of the designated beneficial uses of the San Joaquin River and Delta at the end of the discharge pipe. Therefore, because all beneficial uses, including cold freshwater habitat and warm and cold migration of aquatic organisms, would be protected by the quality of the project's undiluted effluent, the potential for the fully mixed discharge to prevent fish from moving upstream is considered negligible, even when full mixing would occur within 280 feet of the discharge as further discussed in Section 3.4 and Appendix E of the Draft EIR.

As shown in Figures 3-4.2 and 3-4.3 of the Draft EIR, temperatures within the thermal plume would be attenuated to within 1°F of the river background temperature before it reaches the "S" bend; thus, additional mixing related to the complex circulation pattern would have no additional effect on thermal conditions, and any fish that encounters a fully mixed condition within 1°F of the river background temperature would not be expected to alter its migration path.

7-7 This comment states that sensitivity to water temperatures is likely to make fish seek out preferred water temperatures within the channel cross section and avoid those temperatures that are less acceptable. This may lead to temporary inhibition of migration behavior. Fish may either eventually move through the plume after a delay or seek out an alternative route with acceptable temperature regimes. In either case, delayed fish have a greater risk of predation when forced to move away from their preferred habitat (particularly juvenile life stages) because they would be exposed to predation for a longer period or because they would move into portions of the river channel either laterally or vertically where they are more vulnerable to predators.

As stated in the discussion of Impact 3.4-5 under "Energetic Effects," most fish immigrating past the proposed CTF outfall and associated thermal plume would not be expected to alter their migration route past the outfall because of the small temperature differentials associated with the thermal plume. Nevertheless, if the thermal plume causes immigrating green sturgeon, steelhead, or spring-run and fall-run Chinook salmon to alter their migration route past the outfall to avoid large temperature differentials, such course changes in the channel would be small (i.e., tens of meters or less), and the extra energetic output that immigrating adult or emigrating juvenile fish may expend to make such an alteration to their migration route in the channel near the outfall would be negligible and thus insignificant relative to the energetic expenditures these fish make for their overall migrations. The Draft EIR states that these insignificant additional energetic expenditures would not affect the survival of individual adult or juvenile fish migrating past the outfall, and such movements would not adversely affect immigrating adult or emigrating juvenile fish in sublethal ways (e.g., adult fecundity or juvenile growth or predation avoidance).

On page 3.4-28 of the Draft EIR, the assessment further states that in a study of the thermal impacts of the Sacramento Regional County Sanitation District's Sacramento Regional Wastewater Treatment Plant (SRWTP) discharge on the aquatic life of the lower Sacramento River, RBI (2013) found no increased predation of hydroacoustic-tagged juvenile Chinook salmon smolts as they emigrated past the thermal plume associated with the SRWTP diffuser outfall in the Sacramento River near Freeport. The SRWTP has high temperature differentials similar to those of the CTF, and the area of the SRWTP plume with a temperature greater than 1–2°F above the river background temperature is large, thus providing ample space for predatory fishes to congregate. Nevertheless, this study did not find predatory fishes holding within the warmer water of the plume at substantially higher numbers than in other portions of the river lacking such elevated temperatures. Consequently, the CTF thermal plume is not expected to substantially increase predation on emigrating special-status fishes in this reach of the San Joaquin River.

7-8 This comment states that construction of the concrete outfall would create an artificial underwater structure that could provide habitat for predatory fish that would associate with underwater structures, such as largemouth bass (*Micropterus salmoides*).

As stated in the discussion of Impact 3.4-6, the proposed outfall structure to be constructed in the river channel would be relatively small and would largely maintain the contours of the channel. (See Chapter 2, "Project Description," of the Draft EIR for a schematic of the outfall structure.) Consequently, the outfall structure would not produce large areas of hydraulic velocity breaks where predatory fishes would hold and prey on emigrating special-status fishes as they moved past the outfall.

Also, as stated in the discussion of Impact 3.4-5 under "Potential for Increased Predation on Emigrating Special-Status Fishes," a study of the thermal impacts of the Sacramento Regional County Sanitation District's SRWTP discharge on the aquatic life of the lower Sacramento River (RBI 2013) found no increased predation of hydroacoustic-tagged juvenile Chinook salmon smolts as they emigrated past the SRWTP diffuser outfall in the Sacramento River near Freeport. The SRWTP diffuser is located on the river bottom and provides a significant underwater structure, thus providing ample space for predatory fishes to congregate. Nevertheless, this study did not find increased rates of predation associated with the diffuser or associated thermal plume.

Consequently, the CTF outfall is not expected to substantially increase predation on emigrating special-status fishes in this reach of the San Joaquin River.

7-9 This comment states that the installation of approximately 100 linear feet of erosion protection material (e.g., articulated concrete block, riprap) above and below the headwall and extending upstream and downstream of the outfall would permanently prevent the levee bank and underwater slope from functioning as a natural riverine bank with both riparian habitat and subsurface habitat and would preclude any future restoration of this stretch of riverbank unless the scour protection materials are removed.

The proposed outfall would be located in a leveed reach of the lower San Joaquin River. As shown in Figure 2-7 of the Draft EIR, the existing levee bank and underwater slope do not currently function as a natural riverine bank because of the leveed nature of the channel and the resulting steepness of the bank. In addition, this reach of the river contains bank protection material (i.e., riprap); therefore, the project condition would differ little from the existing condition.

In addition, the placement of additional riprap at the outfall site is a necessary component of the project to ensure that erosion of the bank, which could lead to damage or loss of the new outfall, does not occur.

7-10 This comment states that the proposed construction window of July 1 through November 1 for the installation of the outfall avoids most of the listed fish species under NMFS's authority. However, juvenile and adult sDPS green sturgeon and adult CCV steelhead may still be present during this period, with the risk of exposure for these fish species likely lower from July through August, compared to September and October. Therefore, NMFS recommends that installation of the cofferdam, construction of the outfall, and removal of the cofferdam take place during the July and August time frame to avoid overlap with any of these fish to the greatest extent practicable.

The July 1 through November 1 time period is designated by the fisheries agencies as the preferred time to work in the lower San Joaquin River, thus its inclusion as the construction time frame. However, the City shares NMFS's preference for constructing the outfall from July through August. All the necessary permits to construct the outfall have been submitted, and the City is hopeful that all necessary approvals, including ESA consultation, will be received in a timely manner that allows for construction of the outfall in July and August.

7-11 This comment states that NMFS expects the expansion and increased capacity of the proposed wastewater treatment plant to result in negative impacts on local water quality related to increased outputs of stormwater with increased pollutant loads associated with population growth and urbanization in the City of Lathrop. The comment goes on to state that although the City has adopted a regional stormwater treatment plan and has/will receive the necessary CWA permits for additional stormwater outputs associated with the

population growth and development, NMFS still expects additional harm to species and habitats under its jurisdiction from adverse stormwater effects because the treatment and control methods proposed in the stormwater plans and permits will not sufficiently treat stormwater to levels that eliminate harm to the species and habitats.

The process for approving growth in the City involves updating the City's general plan and obtaining approval by the City Council. As planned and approved growth occurs, the CTF is modified to accommodate it. In addition, the City's stormwater program is not part of the proposed project and, therefore, is not analyzed in the Draft EIR. Nevertheless, the City is regulated by the Central Valley RWQCB under a Phase II Municipal Separate Storm Sewer System General NPDES Permit.

7-12 This comment reminds the City and USACE that in previously completed formal consultations for new stormwater outfalls, neither USACE nor the City received coverage for the incidental take of listed species or adverse modification to their critical habitats related to adverse stormwater discharge effects. The comment goes on to state that NMFS highly encourages the City either to incorporate stormwater treatment methods that infiltrate stormwater through soil media with organic matter to filter out toxic, vehicle-related pollutants and other contaminants that would otherwise lead to the incidental take of NMFS trust resources or to implement practices that would reduce stormwater volume discharge, such as widespread use of pervious pavements and infiltration rain gardens, to the maximum extent practicable.

The City appreciates NMFS's reminder that previous formal consultations associated with new stormwater outfalls did not include coverage for incidental take of listed species or adverse modification to their critical habitats related to adverse stormwater discharge effects. Although the City's stormwater program is not part of the proposed project, and therefore is not assessed in the Draft EIR, the City continues to look for ways to improve stormwater quality.

7-13 The comment provides closing remarks and includes contact information. No response is necessary.

San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

HEALTHY AIR LIVING

Letter 8

December 10, 2020

Michael King
City of Lathrop
Public Works Department
390 Towne Centre Drive
Lathrop, CA 95330

Project: Lathrop Consolidated Treatment Facility Surface Water Discharge Project

District CEQA Reference No: 20200879

Dear Mr. King:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Draft Environmental Impact Report (DEIR) for the project referenced above from the City of Lathrop (City). The project consists of modifications to the Consolidated Treatment Facility (CTF), installation of effluent pipelines, and construction of an effluent pipeline, levee crossing, and outfall structure (Project). The Project is located at 18800 Christopher Way, along roadways between the CTF and the San Joaquin River, and along the right bank of the San Joaquin River in Lathrop, CA. The District offers the following comments: 8-1

1) Health Risk Assessment

There are residential units located approximately 60 feet from the proposed construction of the effluent discharge pipeline installation, as well as additional residential units located approximately 90 feet from the proposed construction of the pipeline levee crossing. 8-2

The DEIR did not include a health risk assessment (HRA). A Health Risk Screening/Assessment identifies potential Toxic Air Contaminants (TAC's) impact on surrounding sensitive receptors such as hospitals, daycare centers, schools, work-sites, and residences. TAC's are air pollutants identified by the Office of Environmental Health Hazard Assessment/California Air Resources Board (OEHHA/CARB) that pose a present or potential hazard to human health. A common source of TACs can be attributed to diesel exhaust emitted from both mobile and stationary sources. List

Samir Sheikh
Executive Director/Air Pollution Control Officer

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4800 Enterprise Way
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Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: (661) 392-5500 FAX: (661) 392-5585

www.valleyair.org www.healthyairliving.com

of TAC's identified by OEHHA/CARB can be found at:
https://ww2.arb.ca.gov/resources/documents/carb-identified-toxic-air-contaminants

8-2 cont.

The District recommends the development project be evaluated for potential health impacts to surrounding receptors (on-site and off-site) resulting from operational and multi-year construction TAC emissions.

i) The District recommends conducting a screening analysis that includes all sources of emissions. A screening analysis is used to identify projects which may have a significant health impact. A prioritization, using CAPCOA's updated methodology, is the recommended screening method. A prioritization score of 10 or greater is considered to be significant and a refined Health Risk Assessment (HRA) should be performed.

   For your convenience, the District's prioritization calculator can be found at: http:www.valleyair.org/busind/pto/emission_factors/Criteria/Toxics/Utilities/PRIORITIZATION%20RMR%202016.XLS.

8-3

ii) The District recommends a refined HRA for development projects that result in a prioritization score of 10 or greater. Prior to performing an HRA, it is recommended that development project applicants contact the District to review the proposed modeling protocol. A development project would be considered to have a significant health risk if the HRA demonstrates that the project related health impacts would exceed the Districts significance threshold of 20 in a million for carcinogenic risk and 1.0 for the Acute and Chronic Hazard Indices, and would trigger all feasible mitigation measures. The District recommends that development projects which result in a significant health risk not be approved.

For HRA submittals, please provide the following information electronically to the District for review:

- HRA AERMOD model files
- HARP2 files
- Summary of emissions source locations, emissions rates, and emission factor calculations and methodology.

8-4

More information on toxic emission factors, prioritizations and HRAs can be obtained by:

- E-Mailing inquiries to: hramodeler@valleyair.org; or
- The District can be contacted at (559) 230-6000 for assistance; or
- Visiting the Districts website (Modeling Guidance) at: http://www.valleyair.org/busind/pto/Tox_Resources/AirQualityMonitoring.htm.

2) District Rule 9510 (Indirect Source Review)

The purpose of District Rule 9510 (Indirect Source Review) is to reduce the growth in both NOx and PM10 emissions associated with development and transportation projects from mobile and area sources associated with construction and operation of development projects. The rule encourages clean air design elements to be incorporated into the development project. In case the proposed project clean air design elements are insufficient to meet the targeted emission reductions, the rule requires developers to pay a fee used to fund projects to achieve off-site emissions reductions.

The proposed Project is subject to District Rule 9510 because it will receive a project-level discretionary approval from a public agency and will equal or exceed 9,000 feet of construction. When subject to the rule, an Air Impact Assessment (AIA) application is required prior to applying for project-level approval from a public agency. In this case, if not already done, please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510. 8-5

An AIA application is required and the District recommends that demonstration of compliance with District Rule 9510, before issuance of the first building permit, be made a condition of Project approval.

Information about how to comply with District Rule 9510 can be found online at: http://www.valleyair.org/ISR/ISRHome.htm.

The AIA application form can be found online at: http://www.valleyair.org/ISR/ISRFormsAndApplications.htm.

3) District Rules and Regulation

The District issues permits for many types of air pollution sources and regulates some activities not requiring permits. A project subject to District rules and regulation would reduce its impacts on air quality through compliance with regulatory requirements. In general, a regulation is a collection of rules, each of which deals with a specific topic. Here are a couple of example, Regulation II (Permits) deals with permitting emission sources and includes rules such as District permit requirements (Rule 2010), New and Modified Stationary Source Review (Rule 2201), and implementation of Emission Reduction Credit Banking (Rule 2301). 8-6

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm. To identify other District rules or regulations that apply to this Project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

3a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 requires that new and modified stationary sources of emissions mitigate their emissions using best available control technology (BACT).

8-7

This Project will be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and will require District permits.

Prior to commencing construction on any permit-required equipment or process, a finalized Authority to Construct (ATC) must be issued to the Project proponent by the District. For further information or assistance, the project proponent may contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

3b) Other District Rules and Regulations

The Project may also be subject to the following District rules: Regulation VIII, (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).

8-8

If you have any questions or require further information, please contact Cherie Clark by phone at (559) 230-5940 or by e-mail at Cherie.Clark@valleyair.org .

Sincerely,

Arnaud Marjollet
Director of Permit Services

AM: cc

Letter 8 San Joaquin Valley Air Pollution Control District

Arnaud Marjollet, Director of Permit Services
December 10, 2020

8-1 The comment introduces the letter and summarizes the proposed project. No response is necessary.

8-2 The comment identifies residential land uses approximately 60 and 90 feet from a portion of the proposed construction site. The comment also indicates that the Draft EIR does not include a health risk assessment (HRA), which is a quantitative evaluation of potential cancer and noncancer exposure to sensitive receptors associated with exposure to toxic air contaminants (TACs). With respect to construction activities, diesel particulate matter (diesel PM) is the most common TAC of concern, and the comment directs the reader to a list of TACs identified by the Office of Environmental Health Hazard Assessment (OEHHA) and the California Air Resources Board available online. The issue of TACs and their treatment in the Draft EIR is discussed below in the responses to comments 8-3 and 8-4.

8-3 The comment recommends that a screening analysis using SJVAPCD's Prioritization Calculator (calculator) be conducted for the proposed project. According to SJVAPCD, projects with a prioritization score of 10 or greater should be considered significant, and SJVAPCD recommends that a refined HRA be prepared for these projects. SJVAPCD's calculator is a tool designed to evaluate long-term operational TAC emissions from point sources (i.e., proposed facilities). The calculator was developed consistent with guidance provided by OEHHA that directs air districts with recommended procedures for use in prioritizing facilities into high-, intermediate-, and low-priority categories as required by the Air Toxics "Hot Spots" Information and Assessment Act of 1987 (Air Toxics "Hot Spots" Act) in accordance with Health and Safety Code Section 44344.4(c) (discussed on page 3.2-3 in Section 3.2, "Air Quality," of the Draft EIR) (OEHHA 2016).

The proposed project is a short-term, linear construction project that would occur in phases between 2021 and 2022. SJVAPCD's prioritization calculator is an appropriate screening tool for stationary sources of TACs; however, it may not be useful in screening for TAC impacts for the proposed project, which would result in only short-term construction-related TAC emissions. The calculator does not account for construction duration, local meteorological conditions, or linear construction projects. Rather, the calculator assumes that receptors would be exposed to cancer risk for a duration of 70 years, and assumes that all emissions from the project would originate from a single location (i.e., stationary source). By contrast, due to the short-term nature of project construction activities, receptors would not be exposed for a long duration and construction emissions would be spread out over a much larger distance/area (i.e., approximately 27,000 sq. ft. of disturbance along a linear pipeline route during construction of the effluent discharge pipeline and 20,500 sq. ft. of disturbance along the levee during construction of the levee crossing and outfall), which can greatly affect how pollutants disperse from the source and concentrate at nearby receptors. In other words, emissions that are generated over a large geographic area would result in lower concentrations of pollutants overall at the nearby receptors, as compared to pollutant concentrations from a single source emitting the same mass of pollutants. These project- and site-specific parameters cannot be accounted for in the calculator.

Thus, the inputs required to use the calculator produce overly conservative results indicating that an impact may occur when in fact the results of an HRA demonstrate the project would have a less-than-significant impact. The preparation of an HRA entails a higher level of project-specific detail, including construction duration, which would produce more meaningful results than the calculator can provide for the proposed project. Moreover, the cancer risk screening level used in the calculator to indicate that preparation of an HRA is necessary is 10 in one million, whereas SJVAPCD's recommended CEQA threshold of significance for assessing TAC impacts is 20 in one million. Therefore, in those cases where the calculator may show a cancer risk above 10 in one million, the impact may not be considered significant under CEQA.

On pages 3.2-7 through 3.2-8, the Draft EIR includes a quantitative discussion of potentially adverse impacts related to exposure of sensitive receptors to substantial pollution. As discussed in the Draft EIR, implementing the proposed project would result in temporary, intermittent emissions of diesel PM associated with exhaust emissions of off-road heavy-duty equipment used during site preparation and

construction. However, the results of construction-emissions modeling performed for the analysis indicated that maximum daily emissions of exhaust respirable particulate matter with an aerodynamic diameter of 10 micrometers or less (PM_{10}), which can be considered a surrogate for diesel PM, would be less than 4 pounds per day (lb/day) during construction. For reference, this is well below the SJVAPCD-recommended daily mass emission threshold of 100 lb/day. This level of exhaust PM_{10} is inclusive of overlapping construction phases (i.e., construction of the CTF and levee crossing occurring simultaneously). Notably, these emissions represent total emissions and are not location specific. These emissions would be dispersed throughout the project site and would not be solely introduced at any one location.

Additionally, construction activity located near sensitive receptors along Inland Passage Way would occur over a maximum of 110 days, limited to weekdays. OEHHA recommends that cancer exposure from construction projects be evaluated if a construction period would last longer than 6 months. The construction period assumed for project construction near sensitive receptors would be less than 4 months and therefore would not trigger the need to prepare an HRA (OEHHA 2015).

For these reasons, the qualitative evaluation of TAC impacts included in the Draft EIR, which did not involve the use of SJVAPCD's prioritization calculator, is a suitable approach for the proposed project.

8-4 The comment recommends that development projects that result in a prioritization score of 10 or greater using SJVAPCD's prioritization calculator perform an HRA to quantitatively evaluate TAC impacts. The comment also recommends that projects that produce TAC emissions that exceed SJVAPCD's thresholds of significance of 20 in 1 million for carcinogenic risk and 1.0 for acute and chronic hazard index not be approved. The response to comment 8-3, above, addresses the TAC impact analysis contained in the Draft EIR and explains the rationale for not using SJVAPCD's prioritization calculator for the proposed project's construction emissions. No edits to the Draft EIR are required in response to this comment.

8-5 The comment summarizes the purpose of SJVAPCD's Rule 9510, "Indirect Source Review," which is to reduce both construction and operational emissions of oxides of nitrogen (NO_X) and PM_{10} associated with development and transportation projects from mobile and area sources. The comment states that the proposed project is subject to Rule 9510 because it would receive a project-level discretionary approval from a public agency and would involve more than 9,000 feet of construction. To clarify the regulations applicable to the project, Section 3.2.1, "Regulatory Setting," and the discussion of Impact 3.2-1 in Section 3.2, "Air Quality," of the Draft EIR are revised below and included in Chapter 3, "Revisions to the Draft EIR," in this Final EIR. The clarification provides additional regulatory information, which is addressed in revisions to the analysis of short-term emissions of criteria air pollutants and precursors from the project. These revisions do not alter the conclusions with respect to the significance of any environmental impact.

The following bullet point has been added to page 3.2-6 of the Draft EIR following the third bullet point summarizing Rule 4601, "Architectural Coatings."

- Rule 9510—Indirect Source Review: Also known as the Indirect Source Rule (ISR), this rule is intended to reduce or mitigate emissions of NO_X and PM_{10} from the construction and operation of new development in the SJVAPCD. This rule requires specific percentage reductions in estimated on-site construction and operation emissions and/or payment of a prescribed off-site mitigation fee for required reductions that cannot be met on the project site. Construction emissions of NO_X and PM_{10} exhaust must be reduced by 20 percent and 45 percent, respectively. The rule applies to "not identified" development projects of 9,000 square feet and larger; therefore, SJVAPCD determined that the project would be subject to Rule 9510. The provisions of Rule 9510 are described in more detail in the analysis of environmental impacts and mitigation measures.

In response to this comment, the following text edits have been made to the last paragraph on page 3.2-15 in the discussion of Impact 3.2-1:

As shown in Table 3.2-4, above, maximum daily emissions of NO_X under Scenario 1 (two construction crews constructing the pipeline simultaneously) would exceed the 100 lb/day screening criteria set forth by SJVAPCD; however, construction emissions under Scenario 2 (one pipeline construction crew) would not generate NO_X emissions in excess of the 100 lb/day screening criteria. The proposed project would be subject to SJVAPCD's Rule 9510, "Indirect Source Review," which applies to emissions of NO_X and PM_{10} associated with a new development project. As summarized in Section 3.2.1, "Regulatory Setting," Rule 9510 requires the on-site construction emissions of NO_X and PM_{10} exhaust to be reduced by 20 and 45 percent, respectively. Compliance with Rule 9510 is a regulatory requirement for projects constructed under the purview of SJVACPD. Future project construction would be required to demonstrate compliance with Rule 9510 as a condition of project approval. Although compliance with Rule 9510 would reduce total NO_X and PM_{10} exhaust emissions by the 20- and 45-percent requirement, it is possible that during a day with exceptionally high construction activity, this reduction would not be sufficient to reduce construction emissions to a less-than-significant level (i.e., below 100 lb/day for criteria air pollutants and ozone precursors). Assuming that a 20-percent reduction in NO_X emissions is applied to maximum daily emissions under Scenario 1, NO_X emissions would be 108.8 lb/day day and would be over SJVAPCD's 100 lb/day screening criteria. As such, unmitigated construction emissions under Scenario 1 could result in a violation of an AAQS, and impacts under Scenario 2 would be **less than significant**. This impact would be potentially **significant**.

8-6 The comment introduces SJVAPCD's Regulation II, Rule 2010, Rule 2201, and Rule 2301. The comment is introductory in nature. No response is necessary.

8-7 The comment summarizes Rule 2010, "Permits Required," and Rule 2201, "Modified Stationary Source Review," and indicates that the proposed project would be subject to these rules. Rule 2010 is summarized on page 3.2-5 in the Draft EIR in the discussion of local regulations. Rule 2201 is not summarized in the Draft EIR because the proposed project would not result in an operational increase of criteria air pollutants, as discussed under Impact 3.2-2 on pages 3.2-16 and 3.2-17. Rule 2201 applies to new or modified stationary sources of air pollution that would result in new emissions of volatile organic compounds and NO_X of 20,000 lb/day, carbon monoxide of 200,000 lb/day, sulfur oxides of 54,750 lb/day, and PM_{10} of 29,200 lb/day above baseline conditions. As a construction project, the proposed project would not introduce new operational emissions that would be subject to the permitting requirements of SJVACPD's Rule 2201. As discussed on page 3.2-17, the proposed project would introduce a one-quarter-horsepower pump to power the dichlorination system. This pump would be smaller than a permitted stationary source under SJVAPCD Rule 2201, which applies to all internal combustion engines of more than 50 horsepower. The project would comply with all applicable permitting requirements as conditions of project approval.

8-8 The comment states that the proposed project may be subject to the following rules: Regulation VIII, "Fugitive PM_{10} Prohibitions"; Rule 4102, "Nuisance"; Rule 4601, "Architectural Coatings"; and Rule 4641, "Cutback, Slow Cure, and Emulsified Asphalt, Paving, and Maintenance Operations." The comment also states that if a project involves renovating, partially demolishing, or removing a building, it may be subject to District Rule 4002, "National Emission Standards for Hazardous Air Pollutants."

Regulation VIII, Rule 4002, Rule 4102, and Rule 4601 are summarized on page 3.2-6 of the Draft EIR. To clarify the regulations applicable to the project, Section 3.2.1, "Regulatory Setting," in Section 3.2, "Air Quality," of the Draft EIR is revised below and included in Chapter 3, "Revisions to the Draft EIR," in this Final EIR. The following text edit does not change the significance determinations of the Draft EIR. CEQA requires that all applicable regulations, rules, and policies be complied with as conditions of project approval. Therefore, the analysis contained in the Draft EIR assumes that the project would comply with the aforementioned rules and the provisions contained therein.

The following bullet point has been added to page 3.2-6 of the Draft EIR following the bullet point summarizing Rule 4601, "Architectural Coatings":

- Rule 4641—Cutback, Slow Cure, and Emulsified Asphalt, Paving, and Maintenance Operations: This rule is intended to limit volatile organic compound emissions by restricting the application and manufacturing of certain types of asphalt for paving and maintenance operations. This rule applies to the manufacture and use of cutback asphalt, slow cure asphalt, and emulsified asphalt for paving and maintenance operations.

3 REVISIONS TO THE DRAFT EIR

This chapter presents specific text changes made to the Draft EIR since its publication and public review. The changes are presented in the order in which they appear in the original Draft EIR and are identified by the Draft EIR page number. Text deletions are shown in ~~strikethrough~~, and text additions are shown in underline.

The information contained within this chapter clarifies and expands on information in the Draft EIR and does not constitute "significant new information" requiring recirculation.

3.1 CORRECTIONS AND REVISIONS TO THE DRAFT EIR

3.1.1 Revisions to the Executive Summary Chapter

In response to a comment on the Draft EIR and to clarify the jurisdiction California State Lands Commission has relative to previously unrecorded archaeological resources inadvertently discovered during project-related ground-disturbance, new text is added to Mitigation Measure 3.5-2 in Table ES-1 in the "Executive Summary" chapter of the Draft EIR on page ES-17 as follows:

Impact 3.5-2: Cause a Substantial Adverse Change in the Significance of Archaeological Resources Although no archaeological resources have been identified on the project site, project-related ground-disturbing activities could result in the discovery or damage of previously undiscovered archaeological resources as defined in State CEQA Guidelines Section 15064.5. This would be a potentially significant impact.	PS	**Mitigation Measure 3.5-2: Implement Inadvertent Discovery Measures for the Protection of Archaeological Resources** If any prehistoric or historic-era subsurface archaeological features or deposits, including locally darkened soil ("midden"), that could conceal cultural deposits are inadvertently discovered during project-related construction activities, all ground-disturbances within a minimum of 50 feet of the find shall be halted until a qualified professional archaeologist can evaluate the discovery. The archaeologist shall examine the resources, assess their significance, and recommend appropriate procedures to the lead agency to either further investigate or mitigate adverse impacts (e.g., adverse effect on a significant historical resource). If the qualified archaeologist determines the archaeological material to be Native American in nature, the City shall contact the appropriate California Native American tribe (i.e., Buena Vista Rancheria Me-Wuk Indians and North Valley Yokuts Tribe) for their input on the preferred treatment of the find. If the find is determined to be a unique archaeological resource and it cannot be avoided, then appropriate procedures to protect the integrity of the resource shall be applied (e.g., preservation in place, data recovery program pursuant to PRC Section 21083.2[i]). During evaluation or mitigative treatment, ground-disturbance and construction work may continue on other parts of the project site. The California State Lands Commission (CSLC) shall approve the final disposition of any archaeological, historical, and paleontological resources recovered on state lands under CSLC jurisdiction.	LTS

3.1.2 Revisions to DEIR

In response to a comment on the Draft EIR and to provide clarification related to the regulations applicable to the project, the following bullet point has been added to page 3.2-6 of the Draft EIR following the third bullet point summarizing Rule 4601, "Architectural Coatings."

- Rule 9510—Indirect Source Review: Also known as the Indirect Source Rule (ISR), this rule is intended to reduce or mitigate emissions of NO_X and PM_{10} from the construction and operation of new development in the SJVAPCD. This rule requires specific percentage reductions in estimated on-site construction and operation emissions and/or payment of a prescribed off-site mitigation fee for required reductions that cannot be met on the project site. Construction emissions of NO_X and PM_{10} exhaust must be reduced by 20 percent and 45 percent, respectively. The rule applies to "not identified" development projects of 9,000 square feet and larger; therefore, SJVAPCD determined that the project would be subject to Rule 9510. The provisions of Rule 9510 are described in more detail in the analysis of environmental impacts and mitigation measures.

In response to a comment on the Draft EIR and to provide clarification related to the regulations applicable to the project, the following bullet point has been added on page 3.2-6 following the bullet point summarizing Rule 4601, "Architectural Coatings:"

- Rule 4641—Cutback, Slow Cure, and Emulsified Asphalt, Paving, and Maintenance Operations: This rule is intended to limit volatile organic compound emissions by restricting the application and manufacturing of certain types of asphalt for paving and maintenance operations. This rule applies to the manufacture and use of cutback asphalt, slow cure asphalt, and emulsified asphalt for paving and maintenance operations.

In response to a comment on the Draft EIR to address clarifications of regulations applicable to the project in the analysis of short-term emissions of criteria air pollutants and precursors from the project, the following text edits have been made to the last paragraph on page 3.2-15 under Impact 3.2-1:

> As shown in Table 3.2-4, above, maximum daily emissions of NO_X under Scenario 1 (two construction crews constructing the pipeline simultaneously) would exceed the 100 lb/day screening criteria set forth by SJVAPCD; however, construction emissions under Scenario 2 (one pipeline construction crew) would not generate NO_X emissions in excess of the 100 lb/day screening criteria. The proposed project would be subject to SJVAPCD's Rule 9510, "Indirect Source Review," which applies to emissions of NO_X and PM_{10} associated with a new development project. As summarized in Section 3.2.1, "Regulatory Setting," Rule 9510 requires the on-site construction emissions of NO_X and PM_{10} exhaust to be reduced by 20 and 45 percent, respectively. Compliance with Rule 9510 is a regulatory requirement for projects constructed under the purview of SJVACPD. Future development constructed under the proposed project would be required to demonstrate compliance with Rule 9510 as a condition of project approval. Although compliance with Rule 9510 would reduce total NO_X and PM_{10} exhaust emissions by the 20- and 45-percent requirement, it is possible that during a day with exceptionally high construction activity, this reduction would not be sufficient to reduce construction emissions to a less-than-significant level (i.e., below 100 lb/day for criteria air pollutants and ozone precursors). Assuming that a 20-percent reduction in NO_X emissions is applied to maximum daily emissions under Scenario 1, NO_X emissions would be 108.8 lb/day day and would be over SJVAPCD's 100 lb/day screening criteria. As such, unmitigated construction emissions under Scenario 1 could result in a violation of an AAQS, and impacts under Scenario 2 would be **less than significant**. This impact would be **potentially significant**.

3.1.3 Revisions to Section 3.3 Terrestrial Biological Resources

In response to a comment on the Draft EIR and to provide clarification related to the regulatory context of the Delta Plan, the first full paragraph on page 3.3-5 in Section 3.3, "Terrestrial Biological Resources," is revised to read as follows:

> The Delta Plan was amended in February 2016 to include refined performance measures, which were again amended in April 2018. A September 2016 amendment made permanent an exemption for single-year water transfers to be considered as covered actions. Also, in April 2018, the Delta Plan was amended to revise Chapter 3 to include new text and recommendations for conveyance, storage, and operations, and to revise Chapter 7 to include new text and a policy for setting priorities for state investments in Delta levees. In March 2020, DSC rescinded the April 2018 amendment to Delta Plan Policy RR P1, which set new priorities for state investment in Delta levees and restored the previous version of Policy RR P1 adopted in the Delta Plan in 2013.

In response to a comment on the Draft EIR and to provide clarification regarding Delta Plan policies that may be applicable to the proposed project, new text is added after the third full paragraph on page 3.3-5 in Section 3.3, "Terrestrial Biological Resources," as follows:

> The following Delta Plan policies are related to biological resources:
>
> Policy ER P2 (23 CCR Section 5006) Restore Habitats at Appropriate Elevations
>
> (a) Habitat restoration must be carried out consistent with Appendix 3, which is Section II of the Draft Conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions (California Department of Fish and Wildlife 2011). The elevation map attached as Appendix 4 should be used as a guide for determining appropriate habitat restoration actions based on an area's elevation. If a proposed habitat restoration action is not consistent with Appendix 4, the proposal shall provide rationale for the deviation based on best available science.
>
> (b) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers a proposed action that includes habitat restoration.
>
> Policy ER P3 (23 CCR Section 5007) Protect Opportunities to Restore Habitat
>
> (a Within the priority habitat restoration areas depicted in Appendix 5, significant adverse impacts to the opportunity to restore habitat as described in section 5006, must be avoided or mitigated.
>
> (b) Impacts referenced in subsection (a) will be deemed to be avoided or mitigated if the project is designed and implemented so that it will not preclude or otherwise interfere with the ability to restore habitat as described in section 5006.
>
> (c) Impacts referenced in subsection (a) shall be mitigated to a point where the impacts have no significant effect on the opportunity to restore habitat as described in section 5006. Mitigation shall be determined, in consultation with the California Department of Fish and Wildlife, considering the size of the area impacted by the covered action and the type and value of habitat that could be restored on that area, taking into account existing and proposed restoration plans, landscape attributes, the elevation map shown in Appendix 4, and other relevant information about habitat restoration opportunities of the area.
>
> (d) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers proposed actions in the priority habitat restoration areas depicted in Appendix 5. It does not cover proposed actions outside those areas.
>
> Policy ER P5 (23 CCR Section 5009) Avoid Introductions of and Habitat Improvements for Invasive Nonnative Species
>
> (a) The potential for new introductions of or improved habitat conditions for nonnative invasive species, striped bass, or bass must be fully considered and avoided or mitigated in a way that appropriately protects the ecosystem.

(b) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers a proposed action that has the reasonable probability of introducing or improving habitat conditions for nonnative invasive species.

3.1.4 Revisions to Section 3.5 Cultural, Tribal Cultural, and Paleontological Resources

In response to a comment on the Draft EIR and to clarify the jurisdiction California State Lands Commission has relative to previously unrecorded archaeological resources inadvertently discovered during project-related ground-disturbance, new text is added to Mitigation Measure 3.5-2 on page 3.5-14 in Section 3.5, "Cultural, Tribal Cultural, and Paleontological Resources," in the Draft EIR as follows:

Mitigation Measure 3.5-2: Implement Inadvertent Discovery Measures for the Protection of Archaeological Resources

If any prehistoric or historic-era subsurface archaeological features or deposits, including locally darkened soil ("midden"), that could conceal cultural deposits are inadvertently discovered during project-related construction activities, all ground-disturbances within a minimum of 50 feet of the find shall be halted until a qualified professional archaeologist can evaluate the discovery. The archaeologist shall examine the resources, assess their significance, and recommend appropriate procedures to the lead agency to either further investigate or mitigate adverse impacts (e.g., adverse effect on a significant historical resource). If the qualified archaeologist determines the archaeological material to be Native American in nature, the City shall contact the appropriate California Native American tribe (i.e., Buena Vista Rancheria Me-Wuk Indians and North Valley Yokuts Tribe) for their input on the preferred treatment of the find. If the find is determined to be a unique archaeological resource and it cannot be avoided, then appropriate procedures to protect the integrity of the resource shall be applied (e.g., preservation in place, data recovery program pursuant to PRC Section 21083.2[i]). During evaluation or mitigative treatment, ground-disturbance and construction work may continue on other parts of the project site. The California State Lands Commission (CSLC) shall approve the final disposition of any archaeological, historical, and paleontological resources recovered on state lands under CSLC jurisdiction.

3.1.5 Revisions to Section 3.9 Hydrology and Water Quality

In response to a comment on the Draft EIR and to provide clarification regarding Delta Plan policies that may be applicable to the proposed project, a new section for the Sacramento-San Joaquin Delta Reform Act of 2009 and list of applicable Delta Plan policies is added after the "Central Valley Flood Protection Act" section as part of the regulatory setting on page 3.9-5 in Section 3.9, "Hydrology and Water Quality," as follows:

Sacramento-San Joaquin Delta Reform Act of 2009

A summary of the Sacramento-San Joaquin Delta Reform Act (Delta Reform Act) (California Water Code Section 10610 et seq.) is provided in the regulatory setting of Section 3.3, "Terrestrial Biological Resources." The following Delta Plan policies are related to hydrology and water quality:

Policy ER P1 (23 CCR Section 5005) Delta Flow Objectives

(a) The State Water Resources Control Board's Bay Delta Water Quality Control Plan flow objectives shall be used to determine consistency with the Delta Plan. If and when the flow objectives are revised by the State Water Resources Control Board, the revised flow objectives shall be used to determine consistency with the Delta Plan.

(b) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, the policy set forth in subsection (a) covers a proposed action that could significantly affect flow in the Delta.

Policy RR P3 (23 CCR Section 5014) Protect Floodways

(a) No encroachment shall be allowed or constructed in a floodway, unless it can be demonstrated by appropriate analysis that the encroachment will not unduly impede the free flow of water in the floodway or jeopardize public safety.

(b) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers a proposed action that would encroach in a floodway that is not either a designated floodway or regulated stream.

In response to a comment on the Draft EIR and to provide clarification regarding SWPPP requirements and BMPs that would be implemented to avoid and minimize potential adverse construction-related effects on surface water quality, new text is added to the summary of Impact 3.9-1: Result in Impacts on Water Quality during Project Construction on page 3.9-11 in Section 3.9, "Hydrology and Water Quality," as follows:

Impact 3.9-1: Result in Impacts on Water Quality during Project Construction

Project construction activities would have the potential to result in a temporary increase in San Joaquin River total suspended solids (TSS) and turbidity near the construction site and the release of contaminants into the river. Implementation of a SWPPP and associated BMPs in compliance with various permit requirements, including SWRCB Construction General Permit requirements and CWA Section 401 Water Quality Certification requirements, which would be required for project construction, would avoid and minimize potential adverse construction-related effects on surface water quality. Therefore, this impact would be less than significant.

In response to a comment on the Draft EIR and to provide clarification regarding SWPPP requirements and BMPs that would be implemented to avoid and minimize potential adverse construction-related effects on surface water quality, new text is added to the discussion of Impact 3.9-1 after the second paragraph under the heading, "Effects on Water Quality: Contaminants" on page 3.9-13 in Section 3.9, "Hydrology and Water Quality," as follows:

Effects on Water Quality: Contaminants

Potential sources of contaminant discharges would be the discharge of supernatant from dewatering behind the coffer dam and the use of motorized equipment on and around the levee to install the new effluent pipeline and outfall.

The proposed project would require a CWA Section 404 permit, a CWA Section 401 Water Quality Certification, and notification of a California Fish and Game Code Section 1600 Streambed Alteration Agreement before construction of the pipeline and outfall on the waterside of the levee could occur. The construction work also would be subject to authorization under the SWRCB NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ/NPDES Permit No. CAS000002, as amended by 2010-0014-DWQ and 2012-0006-DWQ). Therefore, the City and/or its construction contractor would be required to prepare a SWPPP and implement appropriate construction BMPs for all activities that may result in the discharge of construction-related contaminants from disturbed construction areas.

The SWPPP would include pollution prevention measures (erosion and sediment control measures and measures to control non-stormwater discharges and hazardous spills); demonstration of compliance with all applicable Central Valley RWQCB standards and other applicable water quality standards; demonstration of compliance with regional and local standards for erosion and sediment control; identification of responsible parties; checklists that document when maintenance inspections occurred, the results of the inspection, required corrective measures, and when corrective measures were implemented; detailed construction timelines; and a BMP monitoring and maintenance schedule.

BMPs would be expected to include as the following measures: conducting all work according to site-specific construction plans that identify areas for clearing, grading, and revegetation so that ground disturbance is minimized; installing silt fences near riparian areas or existing drainages to control erosion and trap sediment and reseed cleared areas with native vegetation; stabilizing disturbed soils before the onset of the winter rainfall season; stabilizing and protecting soil stockpiles from exposure to rain and potential erosion; conducting maintenance on a regular basis to confirm proper installation and function of BMPs, and during storm events conduct maintenance daily; and immediately repairing and replacing BMPs that have failed (within 48 hours of the storm event) with sufficient devices and materials (e.g., silt fence, coir rolls, erosion blankets) provided throughout project construction to enable immediate corrective action for failed BMPs.

The SWPPP also would specify appropriate hazardous materials handling, storage, and spill response practices to reduce the possibility of adverse effects from use or accidental spills or releases of contaminants. Such measures could include developing and implementing strict on-site handling rules to keep potentially contaminating construction and maintenance materials out of drainages and other waterways; conducting all refueling and servicing of equipment with absorbent material or drip pans underneath to contain spilled fuel, oil, and other fluids; and collecting any fluid drained from machinery during servicing in leak-proof containers and delivering to an appropriate disposal or recycling facility; maintaining controlled construction staging and fueling areas away from channels or wetlands to minimize accidental spills and runoff of contaminants in stormwater; preventing substances that could be hazardous to aquatic life from contaminating the soil or entering watercourses; maintaining spill cleanup equipment in proper working condition; and cleaning up all spills immediately according to a spill prevention and response plan.

BMPs would be applied to meet the "maximum extent practicable" and "best conventional technology/best available technology" requirements and to address compliance with water quality standards.

Implementation of appropriate erosion control and pollution prevention BMPs would avoid and minimize construction-related erosion and contaminant discharges. In addition to the BMPs, the SWPPP would include BMP inspection and monitoring activities and would identify the responsibilities of all parties, contingency measures, agency contacts, and training requirements and documentation for those personnel responsible for the installation, inspection, maintenance, and repair of BMPs. The CWA Section 401 Water Quality Certification also would require implementation of measures to prevent, minimize, and contain spills and minimize the amount of soil, sediment, and trash that enters surface waters.

3.1.6 Revisions to Chapter 7 References

In response to a comment on the Draft EIR and to provide clarification regarding Delta Plan policies that are applicable to the proposed project, new text was added on page 3.3-5 in Section 3.3, "Terrestrial Biological Resources," which included a new citation. This new citation is added on page 7-5 under the heading Section 3.3 Terrestrial Biological Resources as follows:

Section 3.3 Terrestrial Biological Resources

Ascent Environmental. 2020 (July). *Aquatic Resources Delineation Report: Lathrop Consolidated Treatment Facility Surface Water Discharge Project*. Sacramento, CA. Prepared for City of Lathrop Public Works Department, Lathrop, CA.

California Department of Fish and Wildlife. 2011. *Draft Conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions.*

———. 2018. *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities*. Available: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959. Accessed 12 April 2017.

4 REFERENCES

Chapter 1, Introduction

Central Valley Regional Water Quality Control Board. 2019 (September 23). *Approval for Flow Increase and Issuance of Revised Monitoring and Reporting Program R5-2016-0028-02, City of Lathrop, Lathrop Consolidated Treatment Facility, San Joaquin County.* Letter to Greg Gibson, senior civil engineer, City of Lathrop Public Works Department. Lathrop, CA.

Central Valley RWQCB. *See* Central Valley Regional Water Quality Control Board.

City of Lathrop. 2013 (June). *City of Lathrop Consolidated Treatment Facility Project Final Initial Study/Proposed Mitigated Negative Declaration.* SCH No. 2013042011. Lathrop, CA. Prepared by Ascent Environmental, Sacramento, CA. Adopted by Lathrop City Council on June 17, 2013.

EKI. *See* EKI Environment & Water.

EKI Environment & Water. 2019a (December). *Recycled Water System Master Plan, City of Lathrop Integrated Water Resources Master Plan Update* (Final). Sacramento, CA. Prepared for City of Lathrop, CA.

———. 2019b (December). *Wastewater System Master Plan, City of Lathrop Integrated Water Resources Master Plan Update* (Final). Sacramento, CA. Prepared for City of Lathrop, CA.

RBI. *See* Robertson-Bryan, Inc.

Robertson-Bryan, Inc. 2019 (August). *Evaluation of Wastewater Treatment Regionalization, Reclamation, Recycling, and Conservation for the City of Lathrop.* Elk Grove, CA. Prepared for Central Valley Regional Water Quality Control Board, Rancho Cordova, CA, on behalf of the City of Lathrop, CA.

Chapter 2, Responses to Comments

California Department of Fish and Wildlife. 2011. *Draft Conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions.*

California Department of Transportation. 2015 (November). *Technical Guidance for Assessment and Mitigation of the Hydroacoustic Effects of Pile Driving on Fish.*

Caltrans. *See* California Department of Transportation.

OEHHA. *See* Office of Environmental Health Hazard Assessment.

Office of Environmental Health Hazard Assessment. 2015. *Air Toxics Hot Spots Program Risk Assessment Guidelines.* Available: https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf. Accessed December 28, 2020.

_____. 2016. *Air Toxic "Hot Spots" Program Facility Prioritization Guidelines.* Available: http://www.capcoa.org/wp-content/uploads/2016/04/CAPCOA%20Prioritization%20Guidelines%20-%20April%202016%20Draft.pdf. Accessed December 28, 2020.

RBI. *See* Robertson-Bryan, Inc.

Robertson-Bryan, Inc. 2013. *Temperature Study to Assess the Thermal Impacts of the Sacramento Regional Wastewater Treatment Plant Discharge on Aquatic Life of the Lower Sacramento River.* Prepared for the Regional Water Quality Control Board, Central Valley Region, on behalf of the Sacramento Regional County Sanitation District.

Chapter 3, Revisions to the Draft EIR

No references used.

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Findings for the Lathrop Consolidated Treatment Facility Surface Water Discharge Project

REQUIRED UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

(Public Resources Code, Section 21000 et seq.)

1 INTRODUCTION

The California Environmental Quality Act (CEQA) (Public Resources Code [PRC], Section 21000 et seq.) requires the City of Lathrop (City), when approving a project for which an environmental impact report (EIR) has been prepared to: 1) make written findings with regard to the disposition of each significant impact, and, if significant unavoidable impacts remain after mitigation, to 2) identify overriding considerations explaining why the City will continue to move ahead with the project.

The City intends to approve the Lathrop Consolidated Treatment Facility (CTF) Surface Water Discharge Project (project). This document explains the City's findings regarding the significant and potentially significant impacts identified in the EIR prepared for the CTF project. The project would not result in any significant and unavoidable impacts; thus, a statement of overriding considerations is not required.

As required under CEQA, the EIR describes the project, adverse environmental impacts of the project, and mitigation measures and alternatives that would substantially reduce or avoid those impacts. The information and conclusions contained in the EIR reflect the City's independent judgment.

The Final EIR (which includes the Draft EIR, comments, responses to comments, and revisions to the Draft EIR) for the project examined several alternatives to the project; however, none of these alternatives were selected as part of the approved project because the proposed project is the environmentally superior alternative that feasibly attains project objectives. The alternatives consist of Alternative 1: No Project Alternative; Alternative 2: Outfall Configuration Alternative; and Alternative 3: Manteca Water Quality Control Facility (WQCF) Outfall Location Alternative.

The Findings are presented for adoption by the City Council, as the City's findings under CEQA and the State CEQA Guidelines (California Code of Regulations [CCR], Title 14, Section 15000 et seq.) regarding the project. The Findings provide the written analysis and conclusions of this City Council regarding the project's environmental impacts, mitigation measures, and alternatives to the project, which in this City Council's view, justify approval of the project, despite its environmental effects.

2 GENERAL FINDINGS AND OVERVIEW

2.1 LATHROP CTF SURFACE WATER DISCHARGE PROJECT

The City is proposing to establish a direct discharge of highly treated wastewater from its CTF to the San Joaquin River. Currently, recycled water generated at the CTF is stored in ponds and used for urban and agricultural irrigation. With implementation of the proposed project, the majority of CTF effluent would be discharged to the San Joaquin River during winter when irrigation demands are low and river flow is relatively high, and less would be discharged during the irrigation season when reuse of CTF recycled water would be maximized for landscape irrigation. This approach would allow existing storage ponds and land application areas designated for urban uses to be developed in accordance with the City of Lathrop General Plan.

The CTF currently treats wastewater to a very high level. State requirements include standards for treatment quality and specifies allowable uses and restrictions for recycled water. The effluent meets the State's requirements for disinfected (using chlorine) tertiary-treated recycled water. The proposed project would involve modifications to the CTF to remove chlorine, which could adversely affect fish, from disinfected effluent intended for river discharge to the San Joaquin River. The project also includes installation of effluent pipelines within City road rights-of-way and a new side-bank outfall along the San Joaquin River, through which the treated effluent would be discharged.

The City intends to obtain a National Pollutant Discharge Elimination System (NPDES) permit from the Regional Water Quality Control Board (Regional Board) to discharge up to 2.5 million gallons per day (mgd) average dry weather flow (current CTF design capacity) of treated effluent to the San Joaquin River. The effluent discharge pipeline and outfall would be designed to accommodate CTF flows at City buildout, of up to 6.0 mgd. The City previously approved, in 2013, expansion of the CTF to as much as 6.0 mgd. The NPDES permit would need to be modified in the future if needed to accommodate flows above 2.5 mgd.

The proposed project has the following objectives:

- Provide for planned City buildout and development based on the City's General Plan by providing effluent discharge to the San Joaquin River.
- Provide efficient and cost-effective wastewater services through buildout of the City.
- Maximize use of recycled water in the City presently and in the future.

2.2 PROCEDURAL BACKGROUND

The City of Lathrop circulated a Notice of Preparation (NOP) of an EIR for the project on November 18, 2019 to responsible agencies, interested parties and organizations, and private organizations and individuals that could have interest in the proposed project. A public scoping meeting was held on December 4, 2019 to present the project description to the public and interested agencies, and to receive comments from the public and interested agencies regarding the scope of the environmental analysis to be included in the Draft EIR. Concerns raised in response to the NOP and scoping meeting were considered during preparation of the Draft EIR. The NOP and comments received on the NOP by interested parties are presented in Appendix A of the Draft EIR.

The City published a public Notice of Availability (NOA) for the Draft EIR on October 21, 2020, inviting comment from the general public, agencies, organizations, and other interested parties. The NOA was filed with the State Clearinghouse (SCH # 2019110339) and the San Joaquin County Clerk, and published in the Manteca Bulletin, a newspaper of regional circulation pursuant to the public noticing requirements of CEQA. The 45-day public review period extended from October 21, 2020 through December 4, 2020.

The City of Lathrop received seven comment letters on the Draft EIR during the public review period. After the public review period concluded, one additional comment letter was received. In accordance with State CEQA Guidelines Section 15088, the Final EIR responds to the comments received during the public review period. Comments received after the public review period closed were also considered by the City of Lathrop in their review of the proposed project. The late comments and responses thereto are also included in Final EIR.

2.3 RECORD OF PROCEEDINGS AND CUSTODIAN OF RECORD

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City's findings and determinations consists of the following documents, materials and testimony, at a minimum:

- The NOP, comments received on the NOP, and all other public notices issued by the City regarding the project (e.g., Notice of Availability).
- The Lathrop CTF Surface Water Discharge Project Draft EIR and Final EIR, including comment letters, and technical materials cited in the documents.

- All official reports and memoranda prepared by the City of Lathrop and consultants in relation to the EIR.
- Minutes and transcripts of the discussions regarding the project and/or project components at public meetings held by the City.
- Staff reports associated with City Council meetings on the project.
- Those categories of documents, materials and testimony included in the record or proceedings identified in Public Resources Code Section 21167.6.

The City Clerk is the custodian of the administrative record. The documents and materials that constitute the administrative record are available for review at the City of Lathrop at 390 Towne Centre Drive, Lathrop, California 95330.

2.4 FINDINGS REQUIRED UNDER CEQA

Public Resources Code Section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" Further, the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." (Id.) Section 21002 also provides that "in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof," subject to a statement of overriding considerations.

The mandate and principles adopted by the Legislature in PRC Section 21002 are implemented, in part, through the requirement in PRC Section 21081 that agencies must adopt findings before approving projects for which an EIR is required.

State CEQA Guidelines Section 15091 provides the following direction regarding findings:

> (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
>
> (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
>
> (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
>
> (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
>
> (See also PRC Section 21081, subd. (a)(1)-(3).)

As defined by CEQA, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors. (PRC Section 21061.1; see also State CEQA Guidelines Section 15126.6(f)(1) [determining the feasibility of alternatives].) The concept of "feasibility" also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (See *Association of Irritated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1400 [court upholds findings rejecting a "reduced herd" alternative to a proposed dairy as infeasible because the alternative failed to meet the "fundamental objective" of the project to produce milk]; *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1506-1508 [agency decision-makers, in rejecting alternatives as

infeasible, appropriately relied on project objective articulated by project applicant].) Moreover, "'feasibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors." (*City of Del Mar v. City of San Diego* [1982] 133 Cal.App.3d 410, 417; see also *California Native Plant Society v. City of Santa Cruz* [2009] 177 Cal.App.4th 957, 1001-1002.)

With respect to a project for which significant impacts cannot be feasibly avoided or substantially lessened, a public agency may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons that the project's benefits outweigh its significant unavoidable adverse environmental effects. (PRC Sections 21001, 21002.1[c], 21081[b].) This is not applicable in the case of the project; all significant impacts can be reduced to a less-than-significant level.

2.5 MITIGATION MONITORING AND REPORTING PROGRAM

A Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the project and has been adopted concurrently with these Findings. (See PRC Section 21081.6(a)(1).) The City will use the MMRP to track compliance with project mitigation measures.

2.6 CONSIDERATION OF THE ENVIRONMENTAL IMPACT REPORT

In adopting these Findings, this City Council finds that the Final EIR was presented to this City Council, the decision-making body of the lead agency, which reviewed and considered the information in the Final EIR prior to approving the project. By these findings, this City Council ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments, and conclusions of the Final EIR. The City Council finds that the Final EIR was completed in compliance with CEQA. The Final EIR represents the independent judgment of the City.

2.7 SEVERABILITY

If any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court to be invalid, void, or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the project, shall continue in full force and effect unless amended or modified by the City.

3 FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT IMPACTS WHICH ARE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL

AIR QUALITY

Impact 3.2-1: Result in Short-Term Emissions of Criteria Air Pollutants and Precursors

Potential Impact: The potential for project construction to result in short-term emissions of criteria air pollutants and precursors is discussed on pages 3.2-14 through 3.2-15 of the Draft EIR.

Mitigation Measure: The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program: Mitigation Measure 3.2-1, "Apply Tier-4 Emissions Standards to Achieve a 30-Percent Reduction in NO_X Emissions from Diesel-Powered Off-Road Equipment."

Findings: Mitigation Measure 3.2-1 requires a 30-percent reduction in oxides of nitrogen (NO_X) exhaust emissions through the use of U.S. Environmental Protection Agency-certified Tier 4 engines if future construction of the effluent discharge pipeline would be executed by two discrete construction crews at the same time as the CTF modifications

are implemented. This 30-percent reduction in NO_X would be determined by the construction start year, fleet engine year mix, equipment type, horsepower, and hourly usage. A 30-percent reduction from anticipated unmitigated maximum daily emissions would lower emissions to 95 lb/day, which would be below San Joaquin Valley Air Pollution Control District's mass emissions screening criterion for NO_X emissions. Because this 30-percent NO_X reduction would be a performance standard to be achieved prior to the commencement of construction, implementation of Mitigation Measure 3.2-1 would be sufficient to reduce NO_X emissions to a less-than-significant level, thus avoiding the potential for an exceedance of an ambient air quality standard and associated adverse health impacts.

In accordance with PRC Section 21081, Mitigation Measure 3.2-1 is an appropriate change or alteration that has been required in, or incorporated into, the project by the City of Lathrop, which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential for adverse effects related to short-term emissions of criteria air pollutants and precursors will be mitigated to a less-than-significant level.

TERRESTRIAL BIOLOGICAL RESOURCES

Impact 3.3-1: Cause Disturbance to or Loss of Valley Elderberry Longhorn Beetle

Potential Impact: The potential for the project to cause disturbance to or loss of valley elderberry longhorn beetle is discussed on page 3.3-24 of the Draft EIR.

Mitigation Measures: The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program: Mitigation Measures 3.3-1a, "Seek Coverage under the SJMSCP" and 3.3-1b, "Conduct Survey for and Protect Valley Elderberry Longhorn Beetle."

Findings: Incorporation of Mitigation Measures 3.3-1a and 3.3-1b into the project would reduce the potentially significant impact on valley elderberry longhorn beetle to a less-than-significant level because the project would seek coverage under the San Joaquin Valley Multi-Species Habitat Conservation and Open Space Plan (SJMSCP), indirect effects would be minimized by implementing protective measures for elderberry shrubs to be retained on-site, and shrubs that would be removed would be transplanted or compensated for in accordance with the SJMSCP.

In accordance with PRC Section 21081, Mitigation Measures 3.3-1a and 3.3-1b are appropriate changes or alterations that have been required in, or incorporated into, the project by the City of Lathrop which avoid or substantially lessen the significant environmental effect as identified in the EIR.

In addition, such changes or alterations are also within the responsibility and jurisdiction of another public agency, the San Joaquin Council of Governments (SJCOG) and not the City of Lathrop. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Based upon the EIR and the entire record before this City Council, this City Council finds that the potential for adverse effects on valley elderberry longhorn beetle will be mitigated to a less-than-significant level.

Impact 3.3-2: Cause Disturbance to or Loss of Western Pond Turtle

Potential Impact: The potential for the project to cause disturbance to or loss western pond turtle is discussed on page 3.3-25 of the Draft EIR.

Mitigation Measure: The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program: Mitigation Measure 3.3-2, "Conduct Western Pond Turtle Preconstruction Survey and Relocation."

Findings: Incorporation of Mitigation Measure 3.3-2 into the project would reduce the potentially significant impact on western pond turtle to a less-than-significant level because it would ensure that western pond turtles are removed from the site and that nest sites are protected so that project construction would not result in mortality of individuals.

In accordance with PRC Section 21081, Mitigation Measure 3.3-2 is an appropriate change or alteration that has been required in, or incorporated into, the project by the City of Lathrop which avoids or substantially lessens the significant environmental effect as identified in the EIR.

In addition, such changes or alterations are also within the responsibility and jurisdiction of another public agency, SJCOG and not the City of Lathrop. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Based upon the EIR and the entire record before this City Council, this City Council finds that the potential for adverse effects on western pond turtles will be mitigated to a less-than-significant level.

Impact 3.3-3: Cause Disturbance to or Loss of Swainson's Hawk, White-Tailed Kite, Cooper's Hawk, Sharp-Shinned Hawk, and Other Nesting Raptors

Potential Impact: The potential for the project to cause disturbance to or loss of Swainson's hawk, white-tailed kite, Cooper's hawk, sharp-shinned hawk, and other nesting raptors is discussed on page 3.3-26 of the Draft EIR.

Mitigation Measure: The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program: Mitigation Measure 3.3-3, "Protect Swainson's Hawk, White-Tailed Kite, Cooper's Hawk, Sharp-Shinned Hawk, and Other Nesting Raptors."

Findings: Incorporation of Mitigation Measure 3.3-3 into the project would reduce the potentially significant impact on Swainson's hawk, white-tailed kite, Cooper's hawk, sharp-shinned hawk, and other nesting raptors to a less-than-significant level because it would require that project activities would not remove an active nest tree or disturb nest sites.

In accordance with PRC Section 21081, Mitigation Measure 3.3-3 is an appropriate change or alteration that has been required in, or incorporated into, the project by the City of Lathrop which avoids or substantially lessens the significant environmental effect as identified in the EIR.

In addition, such changes or alterations are also within the responsibility and jurisdiction of other public agencies, SJCOG, and California Department of Fish and Wildlife (CDFW) if active raptor nests are present, and not the City of Lathrop. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Based upon the EIR and the entire record before this City Council, this City Council finds that the potential for adverse effects on of Swainson's hawk, white-tailed kite, Cooper's hawk, sharp-shinned hawk, and other nesting raptors will be mitigated to a less-than-significant level.

Impact 3.3-4: Cause Disturbance to or Loss of Loggerhead Shrike, California Horned Lark, and Other Nesting Birds

Potential Impact: The potential for the project to cause disturbance to or loss of loggerhead shrike, California horned lark, and other nesting birds is discussed on pages 3.3-27 through 3.3-28 of the Draft EIR.

Mitigation Measure: The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program: Mitigation Measure 3.3-4, "Protect Loggerhead Shrike, California Horned Lark, and Other Nesting Birds."

Findings: Incorporation of Mitigation Measure 3.3-4 into the project would reduce the potentially significant impact on loggerhead shrike, California horned lark, and other nesting birds to a less-than-significant level because it would require preconstruction surveys during the nesting season and no-disturbance buffers around active nests so that project activities do not remove active nests or disturb nesting birds.

In accordance with PRC Section 21081, Mitigation Measure 3.3-4 is an appropriate change or alteration that has been required in, or incorporated into, the project by the City of Lathrop which avoids or substantially lessens the significant environmental effect as identified in the EIR.

In addition, such changes or alterations are also within the responsibility and jurisdiction of other public agencies, SJCOG, and CDFW if nesting birds are present, and not the City of Lathrop. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Based upon the EIR and the entire record before this City Council, this City Council finds that the potential for adverse effects on loggerhead shrike, California horned lark, and other nesting birds will be mitigated to a less-than-significant level.

Impact 3.3-5: Cause Disturbance to or Loss of Riparian Brush Rabbit

Potential Impact: The potential for the project to cause disturbance to or loss of riparian brush rabbit is discussed on pages 3.3-28 through 3.3-29 of the Draft EIR.

Mitigation Measure: The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program: Mitigation Measure 3.3-5, "Protect Riparian Brush Rabbit."

Findings: Incorporation of Mitigation Measure 3.3-5 into the project would avoid or minimize the impact on riparian brush rabbit by conducting preconstruction surveys, conducting daily surveys of construction areas, using exclusion fencing, and minimizing vegetation removal. Additional measures may be developed through consultation with U.S. Fish and Wildlife Service (USFWS) and CDFW that may include supporting the existing USFWS captive breeding program to establish new populations in appropriate habitat and purchasing or creating compensatory habitat, resulting in no net loss of riparian habitat for riparian brush rabbit.

In accordance with PRC Section 21081, Mitigation Measure 3.3-5 is an appropriate change or alteration that has been required in, or incorporated into, the project by the City of Lathrop which avoids or substantially lessens the significant environmental effect as identified in the EIR.

In addition, such changes or alterations are also within the responsibility and jurisdiction of other public agencies, the USFWS and CDFW and not the City of Lathrop. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Based upon the EIR and the entire record before this City Council, this City Council finds that the potential for adverse effects on riparian brush rabbit will be mitigated to a less-than-significant level.

Impact 3.3-6: Cause Disturbance to and Loss of Waters of the United States and State

Potential Impact: The potential for the project to cause disturbance to and loss of waters of the United States and state is discussed on page 3.3-30 of the Draft EIR.

Mitigation Measure: The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program: Mitigation Measure 3.3-6, "Compensate for Loss of Waters of the United States and State."

Findings: Incorporation of Mitigation Measure 3.3-6 into the project would reduce the significant impact on waters of the United States and waters of the state to a less-than-significant level because it would ensure no net loss of functions and acreage of wetlands, other waters of the United States, and waters of the state.

In accordance with PRC Section 21081, Mitigation Measure 3.3-6 is an appropriate change or alteration that has been required in, or incorporated into, the project by the City of Lathrop which avoids or substantially lessens the significant environmental effect as identified in the EIR.

In addition, such changes or alterations are also within the responsibility and jurisdiction of other public agencies, U.S. Army Corp of Engineers and Central Valley Regional Water Quality Control Board and not the City of Lathrop. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Based upon the EIR and the entire record before this City Council, this City Council finds that the potential for adverse effects on waters of the United States and the state will be mitigated to a less-than-significant level.

Impact 3.3-7: Cause Disturbance to or Loss of Riparian Habitat

Potential Impact: The potential for the project to cause disturbance to or loss of riparian habitat is discussed on page 3.3-30 of the Draft EIR.

Mitigation Measure: The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program: Mitigation Measure 3.3-7, "Minimize and Compensate for the Loss of Riparian Habitat."

Findings: Incorporation of Mitigation Measure 3.3-7 into the project would minimize the loss of riparian habitat and sensitive natural communities by restoring habitat, implementing measures to reduce erosion and runoff, and compensating for loss of habitat to ensure no net loss through the permitting process.

In accordance with PRC Section 21081, Mitigation Measure 3.3-7 is an appropriate change or alteration that has been required in, or incorporated into, the project by the City of Lathrop which avoids or substantially lessens the significant environmental effect as identified in the EIR.

In addition, such changes or alterations are also within the responsibility and jurisdiction of other public agencies, SJCOG and CDFW and not the City of Lathrop. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Based upon the EIR and the entire record before this City Council, this City Council finds that the potential for adverse effects on riparian habitat will be mitigated to a less-than-significant level.

AQUATIC BIOLOGICAL RESOURCES

Impact 3.4-2: Cause Direct Fish Injury or Mortality during Construction Resulting in Impacts on Fish Populations

Potential Impact: The potential for the project to cause direct fish injury or mortality during construction resulting in impacts on fish populations is discussed on pages 3.4-27 through 3.4-28 of the Draft EIR.

Mitigation Measure: The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program: Mitigation Measure 3.4-2, "Conduct Fish Rescue and Relocation Operation."

Findings: Incorporation of Mitigation Measure 3.4-2 into the project requires that project construction occur during the NMFS-approved July 1 through October 31 window when no federal Endangered Species Act- (ESA-) listed salmonid juveniles, or delta smelt, are expected to be in the project river reach and thus juvenile salmonids and delta smelt would not be expected to get entrained within the coffer dammed area. The only ESA-listed species that would be expected to be present as a juvenile life stage, and thus prone to potential entrainment, would be juvenile green sturgeon. There is a very low probability that a juvenile green sturgeon would be entrained in the enclosed coffer dammed area due to the noise and disturbance of coffer damming which is expected to move fish away from the area. Nevertheless, if one or more individuals would be entrained, juvenile green sturgeon are hardy and would handle being rescue seined and placed back in the river. This mitigation measure would ensure that most, if not all, fishes that become entrained within the coffer dammed area are safely removed and safely returned to the San Joaquin River prior to the start of construction work within the coffer dammed area.

In accordance with PRC Section 21081, Mitigation Measure 3.4-2 is an appropriate change or alteration that has been required in, or incorporated into, the project by the City of Lathrop which avoids or substantially lessens the significant environmental effect as identified in the EIR.

Based upon the EIR and the entire record before this City Council, this City Council finds that the potential for adverse effects on fish populations during project construction will be mitigated to a less-than-significant level.

CULTURAL, TRIBAL CULTURAL, AND PALEONTOLOGICAL RESOURCES

Impact 3.5-2: Cause a Substantial Adverse Change in the Significance of Archaeological Resources

Potential Impact: The potential for the project to cause a substantial adverse change in the significance of archaeological resources is discussed on pages 3.5-13 through 3.5-14 of the Draft EIR.

Mitigation Measure: The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program: Mitigation Measure 3.5-2, "Implement Inadvertent Discovery Measures for the Protection of Archaeological Resources."

Findings: Incorporation of Mitigation Measure 3.5-2 into the project would ensure that any previously unrecorded archaeological resources inadvertently discovered during project-related ground-disturbance would be properly handled and treated because it would require the performance of professionally accepted and legally compliant procedures for the discovery and protection of previously undocumented significant archaeological resources.

In accordance with PRC Section 21081, Mitigation Measure 3.5-2 is an appropriate change or alteration that has been required in, or incorporated into, the project by the City of Lathrop which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that potentially significant impacts resulting from the inadvertent discovery of unknown archaeological resources during construction would be reduced to a less-than-significant level.

In addition, such changes or alterations are also within the responsibility and jurisdiction of other public agencies, California Native American Tribes if Native American archaeological resources are found, and California State Lands Commission if archaeological resources are recovered on state lands, and not the City of Lathrop. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Impact 3.5-3: Cause a Substantial Adverse Change in the Significance of a Tribal Cultural Resource

Potential Impact: The potential for the project to cause a substantial adverse change in the significance of a tribal cultural resource (TCR) is discussed on pages 3.5-14 through 3.5-15 of the Draft EIR.

Mitigation Measure: The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program: Mitigation Measure 3.5-3, "Implement Inadvertent Discovery Measures for the Protection of Tribal Cultural Resources."

Findings: Incorporation of Mitigation Measure 3.5-3 into the project would ensure that any previously unrecorded TCRs inadvertently discovered during project-related ground-disturbance would be properly treated by notifying the appropriate California Native American tribe and requiring preservation options and proper care of significant artifacts if they are recovered.

In accordance with PRC Section 21081, Mitigation Measure 3.5-3 is an appropriate change or alteration that has been required in, or incorporated into, the project by the City of Lathrop which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential for adverse effects on TCRs will be mitigated to a less-than-significant level.

In addition, such changes or alterations are also within the responsibility and jurisdiction of another public agency, a California Native American Tribe if TCRs are found, and not the City of Lathrop. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Impact 3.5-4: Disturb Human Remains

Potential Impact: The potential for the project to disturb human remains is discussed on page 3.5-15 of the Draft EIR.

Mitigation Measure: The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program: Mitigation Measure 3.5-4, "Implement Inadvertent Discovery Measures for the Protection of Human Remains."

Findings: Incorporation of Mitigation Measure 3.5-4 into the project would ensure that any unrecorded or inadvertent discoveries of human remains during ground-disturbing activities would be properly mitigated in accordance with the laws of the state.

In accordance with PRC Section 21081, Mitigation Measure 3.5-4 is an appropriate change or alteration that has been required in, or incorporated into, the project by the City of Lathrop which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential for adverse effects on human remains will be mitigated to a less-than-significant level.

HAZARDS AND HAZARDOUS MATERIALS

Impact 3.8-1: Create a Significant Health Hazard from the Routine Transport, Use, or Disposal of Hazardous Materials, Including Reasonably Foreseeable Upset or Accidents

Potential Impact: The potential for the project to create a significant health hazard from the routine transport, use, or disposal of hazardous materials, including reasonably foreseeable upset or accidents is discussed on pages 3.8-6 through 3.8-8 of the Draft EIR.

Mitigation Measure: The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program: Mitigation Measure 3.8-1, "Implement Mitigation Measure 4.14.-1, "Existing Hazardous Materials/Waste Sites," Incorporated by Reference into the 2013 CTF IS/MND."

Findings: Incorporation of Mitigation Measure 3.8-1 into the project would require that if any soil discoloration, vapors, or other signs of potential hazardous waste contamination is encountered during construction then the soils would be tested and removed if found to be contaminated above Department of Toxic Substance Control (DTSC)-acceptable levels.

In accordance with PRC Section 21081, Mitigation Measure 3.8-1 is an appropriate change or alteration that has been required in, or incorporated into, the project by the City of Lathrop which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential for adverse effects related to the routine transport, use, or disposal of hazardous materials, including reasonably foreseeable upset or accidents, will be mitigated to a less-than-significant level.

In addition, such changes or alterations are also within the responsibility and jurisdiction of another public agency, DTSC if soil samples are contaminated above DTSC acceptable levels, and not the City of Lathrop. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

4 FINDINGS AND RECOMMENDATIONS REGARDING THOSE IMPACTS THAT ARE LESS THAN SIGNIFICANT OR LESS THAN CUMULATIVELY CONSIDERABLE

The City has reviewed and considered the information in the Draft EIR and the Final EIR addressing potential environmental effects, proposed mitigation measures, and alternatives. The City, relying on the facts and analysis in the Draft EIR and the Final EIR, which were presented to the City and reviewed and considered prior to any approvals, concurs with the conclusions of the Draft EIR and the Final EIR regarding the potential environmental effects of the EIR:

Air Quality

- Impact 3.2-2: Result in Operational Emissions of Criteria Air Pollutants and Precursors
- Impact 3.2-3: Expose Sensitive Receptors to Emissions of Toxic Air Contaminants

Terrestrial Biological Resources

- Impact 3.3-8: Cause Disturbance to or Loss of Terrestrial Wildlife Corridors

Aquatic Biological Resources

- Impact 3.4-1: Result in Construction-Related Underwater Noise and Vibration Impacts on Fish and Their Prey Organisms
- Impact 3.4-3: Result in Adverse Effects on Aquatic Species Because of Alterations in Aquatic and Riparian Habitat during Construction
- Impact 3.4-4: Result in CTF Discharge-Related Effects on Seasonal Fully Mixed River Temperatures and Associated Thermal Impacts on Fish, Phytoplankton, Zooplankton, and Benthic Macroinvertebrates (BMI)
- Impact 3.4-5: Cause Thermal Impacts on Fish, Phytoplankton, Zooplankton, and BMI Moving Past or through the Thermal Plume near the CTF Outfall
- Impact 3.4-6: Result in Operations-Related Effects on River Flow and Physical Habitat and Associated Impacts on Fish and Other Aquatic Organisms
- Impact 3.4-7: Affect Salmonid Movements or Behavior within the San Joaquin River due to Copper Concentrations in the Effluent Discharge

Cultural, Tribal Cultural, and Paleontological Resources

- Impact 3.5-1: Cause a Substantial Adverse Change in the Significance of Historical Resources
- Impact 3.5-5: Disturb Paleontological Resources

Energy

- Impact 3.6-1: Result in the Wasteful, Inefficient, or Unnecessary Consumption of Energy during Project Construction or Operation
- Impact 3.6-2: Conflict with or Obstruct a State or Local Plan for Renewable Energy or Energy Efficiency

Greenhouse Gas Emissions and Climate Change

- Impact 3.7-1: Generate GHG Emissions During Construction and Operation of the Proposed Project

Hazards and Hazardous Materials

- Impact 3.8-2: Impair Implementation of or Physically Interfere with an Adopted Emergency Response Plan or Emergency Evacuation Plan

Hydrology and Water Quality

- Impact 3.9-1: Result in Impacts on Water Quality during Project Construction
- Impact 3.9-2: Result in Impacts on Flood Flows and Associated Erosion during Project Construction
- Impact 3.9-3: Result in Impacts on Groundwater during Project Operation
- Impact 3.9-4: Result in Hydraulic Impacts That Would Cause Substantial Erosion or Impede or Redirect Flood Flows during Project Operation
- Impact 3.9-5: Result in Impacts on Water Quality during Project Operation: Various Contaminants

- Impact 3.9-6: Result in Impacts on Water Quality during Project Operation: Electrical Conductivity and Total Dissolved Solids
- Impact 3.9-7: Result in Impacts on Water Quality during Project Operation: Trihalomethane Compounds
- Impact 3.9-8: Result in Impacts on Water Quality from Project Operation: pH
- Impact 3.9-9: Result in Impacts on Water Quality during Project Operation: Turbidity
- Impact 3.9-10: Result in Impacts on Water Quality during Project Operation: Ammonia, Nitrate plus Nitrite, Phosphorus, and Nutrient Biostimulation
- Impact 3.9-11: Result in Impacts on Water Quality during Project Operation: Dissolved Oxygen
- Impact 3.9-12: Result in Impacts on Water Quality during Project Operation: Temperature
- Impact 3.9-13: Result in Impacts on Water Quality during Project Operation: Endocrine-Disrupting Compounds and Constituents of Emerging Concern

Noise and Vibration

- Impact 3.10-1: Generate Excessive Noise Levels During Construction
- Impact 3.10-2: Generate Excessive Operational Noise Levels
- Impact 3.10-3: Generate Excessive Ground-borne Vibration Levels During Construction

Cumulative

- Air Quality
- Terrestrial Biological Resources
- Aquatic Biological Resources
- Cultural, Tribal Cultural, and Paleontological Resources
- Energy
- Greenhouse Gas Emissions and Climate Change
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Noise and Vibration

5 PROJECT ALTERNATIVES

5.1 BASIS FOR ALTERNATIVES-FEASIBILITY ANALYSIS

Public Resources Code Section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" The same statute states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects."

Where a lead agency has determined that, even after the adoption of all feasible mitigation measures, a project as proposed will still cause one or more significant environmental effects that cannot be substantially lessened or avoided, the agency, prior to approving the project as mitigated, must first determine whether, with respect to such

impacts, there remain any project alternatives that are both environmentally superior and feasible within the meaning of CEQA. Although an EIR must evaluate this range of *potentially* feasible alternatives, an alternative may ultimately be deemed by the lead agency to be "infeasible" if it fails to fully promote the lead agency's underlying goals and objectives with respect to the project. (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 999–1000 (*CNPS*); *Citizens for Open Government v. City of Lodi* (2012) 205 Cal.App.4th 296, 314–315; *City of Del Mar v. City of San Diego* (1983) 133 Cal.App.3d 401, 417; *Los Angeles Conservancy v. City of West Hollywood* (2017) 18 Cal.App.5th 1031, 1041-1043.) "'Feasibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors." (*Ibid.*; see also *CNPS*, *supra*, 177 Cal.App.4th at p. 1001.) Thus, even if a project alternative will avoid or substantially lessen any of the significant environmental effects of the project, the decision-makers may reject the alternative if they determine that specific considerations make the alternative infeasible. Although the analysis in the EIR determined that all significant or potentially significant impacts of the project could be reduced to a less-than-significant level with implementation of mitigation measures (see Section 3, above), the EIR and the Findings herein consider alternatives that may further avoid or reduce the impacts of the proposed project and achieve the project objectives.

Under CEQA Guidelines Section 15126.6, the alternatives to be discussed in detail in an EIR should be able to "feasibly attain most of the basic objectives of the project[.]" For this reason, the project objectives described above under Section 2.1 provided the framework for defining possible project alternatives. (See *In re Bay-Delta* (2008) 43 Cal.4th 1143, 1166.) Alternatives also were evaluated based on general feasibility criteria suggested by the CEQA Guidelines.

Based on the requirements of State CEQA Guidelines Section 15126.6 and the project objectives, the following alternatives to the project were identified:

- Alternative 1: No Project Alternative
- Alternative 2: Outfall Configuration Alternative
- Alternative 3: Manteca WQCF Outfall Location Alternative

The City finds that a good-faith effort was made in the EIR to evaluate a reasonable range of alternatives that could feasibly attain most of the basic objectives of the program but that would avoid or substantially lessen any of the significant effects associated with the proposed project, even when the alternatives might impede the attainment of the project objectives and might be more costly. As a result, the scope of alternatives analyzed in the EIR is not unduly limited or narrow. (See Draft EIR, Chapter 5.)

5.1.1 Scope of Necessary Findings and Considerations for Project Alternatives

As noted above, these Findings address whether the various alternatives substantially lessen or avoid any of the significant impacts associated with the proposed project and then consider the feasibility of each alternative. Under CEQA, as noted earlier, "[f]easible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors." (CEQA Guidelines, Section 15364.) The concept of feasibility permits agency decisionmakers to consider the extent to which an alternative can meet some or all of a project's objectives. In addition, the definition of feasibility encompasses "desirability" to the extent that an agency's determination of infeasibility represents a reasonable balancing of competing economic, environmental, social and technological factors supported by substantial evidence. As such, these Findings consider the extent to which the alternatives can meet the program objectives, as described in the EIR and in Section 2.1, above.

5.2 ALTERNATIVES ANALYSIS IN EIR

5.2.1 Alternative 1: No Project Alternative

Alternative 1, the No Project Alternative, and associated impacts are discussed on page 5-5 through 5-8 of the Draft EIR. State CEQA Guidelines Section 15126.6, subdivision (e), requires every EIR to include a No Project Alternative. "The purpose of describing and analyzing a no project alternative is to allow decision-makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project." In general, this alternative should discuss "existing conditions ... as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services." Consistent with this obligation, "where failure to proceed with the project will not result in preservation of existing environmental conditions, the analysis should identify the practical result of the project's non-approval and not create and analyze a set of artificial assumptions that would be required to preserve the existing physical environment." (Id. at subd. (e)(3)(B).)

The No Project Alternative assumes no surface water discharge infrastructure would be constructed. All wastewater would continue to be treated, stored in ponds, and used for landscape irrigation or disposed of via land application on land currently designated for urban development in the City of Lathrop's General Plan because acquisition of adequate storage and land application areas outside the City limits is infeasible. Agricultural land outside the City limits that could be used for storage and land application of recycled water would be too expensive and the landowners have expressed an unwillingness to sell this land to the City (RBI 2019:14). Thus, the City's ability to develop consistent with its General Plan would be constrained under the No Project Alternative because existing lands currently used for recycled water storage and disposal within the City, although designated under the General Plan for urban development, would not be developed with urban uses and would remain in use for recycled water storage and disposal. In addition, as some areas of the City grow, wastewater generation and the need for disposal would increase, committing other land designated for urban development within the City to treated effluent storage and disposal. This would preclude the ability of the City to fulfill its General Plan land use vision. Therefore, the No Project Alternative would not meet the key project objective to provide for planned City buildout and development based on the City's General Plan.

Findings: The environmental benefits of this alternative over the proposed project are related to aquatic biological resources and hydrology and water quality, but would not result in substantial impact differences. It would result in similar impacts on terrestrial biological resources, cultural, tribal, and paleontological resources, energy, and hazards and hazardous materials compared to the proposed project. However, impacts related to air quality, greenhouse gas emissions and climate change, and noise and vibration would be greater under the No Project Alternative than under the proposed project. Because this alternative would not provide for planned City buildout and development in accordance with the Lathrop General Plan, it would not meet all of the objectives of the proposed project.

While the City recognizes that the No Project Alternative would have some environmental benefits, it would also have numerous environmental impacts that are greater than the proposed project and it does not meet the project's objective to provide for planned City buildout and development based on the City's General Plan. The project is environmentally superior to this alternative. For the reasons provided above, this alternative is rejected.

5.2.2 Alternative 2: Outfall Configuration Alternative

Alternative 2 and associated impacts are discussed on page 5-9 through 5-11 of the Draft EIR. Alternative 2 would involve discharge of treated effluent to the San Joaquin River using a bottom-diffuser outfall instead of the proposed side-bank outfall at the currently proposed outfall location for the project. Alternative 2 would allow for the discharge of treated effluent to the San Joaquin River similar to that which would occur with the proposed project. This alternative would allow for the disposal of treated effluent to be redirected from land disposal to surface water

discharge. Operation of this alternative would also maximize the reuse of treated effluent to support irrigation of landscaping areas in the City during the year.

Under this alternative, land currently used for land application of treated effluent that is designated for urban development would be available for such uses consistent with the City's General Plan. Thus, the project objectives to provide efficient and cost-effective wastewater services for the City and maximize use of recycled water in the City would be met. Additionally, the project objective related to providing for planned City buildout and development based on the City's General Plan would be met.

Findings: Alternative 2 would result in similar impacts to those of the proposed project related to terrestrial biological resources, cultural, tribal cultural, and paleontological resources, energy, greenhouse gas emissions and climate change, hazards and hazardous materials, hydrology and water quality, and noise and vibration. Impacts from Alternative 2 related to air quality and aquatic biological resources would be greater, but not substantially different, than under the proposed project.

The City acknowledges that this alternative would meet the project objectives, but this alternative would not avoid or substantially lessen any potentially significant impacts of the proposed project and would result in some additional impacts that would not occur with the proposed project. The project is environmentally superior to this alternative. For the reasons provided above, this alternative is rejected.

5.2.3 Alternative 3: Manteca WQCF Outfall Location Alternative

Alternative 3 and associated impacts are discussed on page 5-11 through 5-17 of the Draft EIR. Alternative 3 would discharge treated effluent to the San Joaquin River using the existing Manteca WQCF side-bank outfall located at river mile 57. Alternative 3 would include the same modifications at the CTF as those for the proposed project to dechlorinate treated effluent. This alternative would require construction of a new discharge pipeline to convey treated effluent to the Manteca WQCF outfall and would cross State Route 120 and the Union Pacific Railroad rail line to tie into the Manteca WQCF pipeline that conveys flows to the Manteca outfall or directly into infrastructure at the levee where the Manteca outfall is located.

Because Alternative 3 would allow for the discharge of treated effluent to the San Joaquin River similar to that which would occur with the proposed project, this alternative would allow for the disposal of treated effluent to be redirected from land disposal to surface water discharge when demand for recycled water is low, and otherwise directed to recycled water use for landscape irrigation in the City. Thus, land currently used for land application of treated effluent that is designated for urban development would be available for such uses consistent with the City's General Plan. For these reasons, the project objectives to provide efficient and cost-effective wastewater services for the City and maximize use of recycled water in the City would be met. Lathrop staff have expressed concern over implementation of an alternative that would share an outfall with Manteca because it is unclear how potential violations of the National Pollutant Discharge Elimination System (NPDES) permit receiving water limitations would be determined, if one were to occur. It is also uncertain as to whether the City of Manteca would agree to implement this alternative.

Findings: Alternative 3 would result in less potential construction noise and vibration effects and similar impacts related to air quality, terrestrial biological resources, cultural, tribal cultural, and paleontological resources, energy, greenhouse gas emissions and climate change, and hazards and hazardous materials compared to the proposed project. However, this alternative would result in greater impacts related to aquatic biological resources and water quality, but not substantially different, compared to the proposed project.

The City acknowledges this alternative would meet the project objectives, but this alternative would not avoid or substantially lessen any potentially significant impacts of the proposed project and would result in some additional impacts that would not occur with the proposed project. Additionally, implementation of Alternative 3 would require close coordination with the City of Manteca that may raise operational challenges, including uncertainty about how potential violations of the NPDES permit receiving water limitations would be apportioned and resolved between the

two jurisdictions. Because of this uncertainty, this alternative is considered infeasible. For the reasons provided above, this alternative is rejected.

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

CEQA requires that an environmentally superior alternative be identified among the alternatives that are analyzed in the EIR. As summarized in Table 5-1 and discussed in Section 5.6 of the Draft EIR and Sections 5.2.1 through 5.2.3 above, the proposed project is the environmentally superior alternative. Additionally, the proposed project best meets the project objectives while also avoiding potentially significant impacts of the alternatives.

6 REFERENCES

For complete lists of references used in preparing the Draft EIR and the Final EIR, see Chapter 7, References, and Chapter 4, References in these documents, respectively.

Robertson-Bryan, Inc. 2019 (August). *Evaluation of Wastewater Treatment Regionalization, Reclamation, Recycling, and Conservation for the City of Lathrop*. Elk Grove, CA. Prepared for Central Valley Regional Water Quality Control Board, Rancho Cordova, CA, on behalf of the City of Lathrop, CA.

ATTACHMENT D

Mitigation Monitoring and Reporting Progam for the

Lathrop Consolidated Treatment Facility Surface Water Discharge Project

State Clearinghouse No. 2019110339

Prepared for

City of Lathrop

February 2021

Mitigation Monitoring and Reporting Program for the

Lathrop Consolidated Treatment Facility Surface Water Discharge Project

State Clearinghouse No. 2019110339

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Table 1 Lathrop Consolidated Treatment Facility Surface Water Discharge Project Mitigation Monitoring and Reporting Program 2

LIST OF ABBREVIATIONS

CEQA	California Environmental Quality Act
City	City of Lathrop
DTSC	Department of Toxic Substances Control
MMRP	mitigation monitoring and reporting program
PRC	Public Resources Code

1 MITIGATION MONITORING AND REPORTING PROGRAM

In accordance with the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] Section 21000 et seq.), the City of Lathrop (City) prepared an environmental impact report (EIR) for the Lathrop Consolidated Treatment Facility Surface Water Discharge Project (State Clearinghouse No. 2019110339) that identified significant impacts and mitigation measures that would reduce the identified impacts to less-than-significant levels, where feasible.

CEQA (PRC Section 21081.6) and the State CEQA Guidelines (Sections 15091[d] and 15097) require public agencies to "adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment." This mitigation monitoring and reporting program (MMRP) has been prepared for the proposed project because the EIR identifies significant adverse impacts related to project implementation, and mitigation measures have been identified to reduce those impacts. Adoption of this MMRP would occur along with approval of the proposed project.

1.1 PURPOSE OF MITIGATION MONITORING AND REPORTING PROGRAM

This MMRP has been prepared to ensure that all required mitigation measures are implemented and completed in a satisfactory manner before and during project construction and operation, as applicable.

The MMRP table provided below has been prepared to assist the responsible parties in implementing the mitigation measures. The table identifies the impact; the individual mitigation measures; the specific actions required before, during, and after construction; the implementing party; and mitigation timing. The table also includes a column to confirm implementation of the mitigation measures after project approval. The numbering of mitigation measures follows the numbering sequence found in the EIR. Mitigation measures that are referenced more than once in the EIR are not duplicated multiple times in the MMRP table.

1.2 ROLES AND RESPONSIBILITIES

The City is responsible for overall administration of the MMRP and for verifying that the construction contractor or other designated party has completed the necessary actions for each measure. The party responsible for implementing each item will identify the staff members responsible for coordinating with the City on the MMRP.

1.3 MITIGATION MONITORING AND REPORTING PROGRAM TABLE

Table 1, which identifies the mitigation measures applicable to the proposed project, includes the table columns identified and described below:

- Impact: This column presents all the impacts disclosed in the EIR for which mitigation was identified.
- Mitigation Measure: This column presents all the mitigation measures identified in the EIR, each of which has been adopted and incorporated into the project.
- Action(s): For every mitigation measure, one or more actions are described. The actions delineate the means by which the mitigation measures will be implemented and, in some instances, the criteria for determining whether a measure has been successfully implemented. Where mitigation measures are particularly detailed, the action may refer back to the measure.
- Implementing Party: This column identifies the entity responsible for undertaking the required action.
- Timing: Implementation of the action must occur before or during some part of project approval, project design, or project construction or on an ongoing basis. This column identifies the timing for implementation of each mitigation measure.
- Completion of Implementation: The City is responsible for ensuring that mitigation measures are successfully implemented. The "Completion of Implementation" column is to be used by the City to indicate when implementation of a mitigation measure has been completed. The City, at its discretion, may delegate implementation responsibility or portions thereof to qualified consultants or contractors.

Table 1 Lathrop Consolidated Treatment Facility Surface Water Discharge Project Mitigation Monitoring and Reporting Program

Impact	Mitigation Measure	Action(s)	Implementing Party	Timing	Completion of Implementation
3.2 Air Quality					
Impact 3.2-1: Result in Short-Term Emissions of Criteria Air Pollutants and Precursors	**Mitigation Measure 3.2-1: Apply Tier-4 Emissions Standards to Achieve a 30-Percent Reduction in NO_X Emissions from Diesel-Powered Off-Road Equipment** If project implementation requires two construction crews to construct the effluent discharge pipeline, the City shall require the construction contractor to use off-road construction equipment that meets EPA's Tier 4 emissions standards as defined in 40 Code of Federal Regulations. The construction equipment shall reduce construction emissions of NO_X by 30 percent from the statewide average as estimated by CARB, such that NO_X emissions do not exceed 100 lb/day. The construction contractor shall provide a plan for approval by the City that demonstrates that heavy-duty off-road vehicles (50 horsepower [hp] or more) to be used 8 hours or more during project construction achieve this 30-percent reduction. The plan shall have two components: an initial report submitted before construction and a final report submitted after project completion. The initial report shall be submitted to the City prior to the issuance of grading permits and shall provide project and construction company information; and the equipment type, hp rating, engine model year, projected hours of use, and CARB equipment identification number for each piece of equipment in the plan. The final report shall document the end of the job, phase, or calendar year to demonstrate continued project compliance. This requirement shall be applied to a future construction scenario that requires the use of two effluent discharge pipeline construction crews operating off-road heavy-duty equipment within the project site at the same time CTF modifications are being constructed. Future construction of the effluent discharge pipeline that could be implemented by one construction crew at the same time as CTF modifications are being constructed shall not be subject to the requirements of this mitigation measure.	If this mitigation measure is required, confirm that the mitigation measure is included in the construction contract before contract is issued. If this mitigation measure is required, confirm that the initial report has been submitted before construction begins. If this mitigation measure is required, confirm that the final report has been submitted after construction is completed.	City of Lathrop Public Works Department	Conduct one-time check of the construction contract before contract is executed. Conduct one-time check of the initial report before grading permits are issued. Conduct one-time check of the final report after construction is completed.	

Impact	Mitigation Measure	Action(s)	Implementing Party	Timing	Completion of Implementation
3.3 Terrestrial Biological Resources					
Impact 3.3-1: Cause Disturbance to or Loss of Valley Elderberry Longhorn Beetle	**Mitigation Measure 3.3-1a: Seek Coverage under the SJMSCP** Prior to any project grading or vegetation removal, the City will seek coverage under the SJMSCP for authorized take and to mitigate habitat impacts on covered special-status species. Coverage involves compensation for habitat impacts on covered special-status species. Coverage also requires implementation of incidental take and minimization measures and payment of fees for conversion of habitat for covered special-status species. Fees paid may fund the preservation and/or creation of habitat in preserves to be managed in perpetuity. Obtaining coverage for a project includes incidental take authorization under Section 10(a) of the ESA, California Fish and Game Code Section 2081, and the MBTA. Coverage under the SJMSCP would fully mitigate all habitat impacts on covered special-status species that have no limitations to take coverage.	Confirm that City obtained coverage under the SJMSCP. Confirm that the compensation requirements are fulfilled and that the incidental take and minimization measures required for SJMSCP coverage are implemented during construction.	City of Lathrop Public Works Department through coordination with San Joaquin Council of Governments (SJCOG)	Conduct one-time check that coverage was sought before project grading or vegetation removal begins. Conduct one-time check to confirm that compensation requirements are fulfilled. Field-check as needed to confirm that incidental take and minimization measures are implemented.	
	Mitigation Measure 3.3-1b: Conduct Survey for and Protect Valley Elderberry Longhorn Beetle The City will implement the following measures, outlined in the SJMSCP, to avoid, minimize, and mitigate impacts on valley elderberry longhorn beetle: a) A qualified biologist will be retained by the City to conduct a preconstruction survey to count and measure elderberry stems and determine whether valley elderberry longhorn beetle exit holes are present before implementation of the project for all elderberry shrubs within or adjacent to the project footprint. b) The following measures will be implemented for all elderberry shrubs that will be retained on the project site: ▶ A construction setback of 20 feet from the dripline of each elderberry shrub/cluster will be established. ▶ Brightly colored flags and/or fencing will be placed around elderberry shrubs as close as possible to construction limits during project activities. ▶ Measures will be implemented during ground-disturbing activities on the project site to avoid altering the hydrology	Confirm that the mitigation measure is included in the construction contract. Confirm that a qualified biologist has conducted a preconstruction survey. If elderberry shrubs cannot be avoided, confirm shrubs are transplanted during the dormant season or new shrubs are planted within SJMSCP preserves, as appropriate. Perform field-checks, as needed, to confirm adherence to mitigation measures.	City of Lathrop Public Works Department and through coordination with SJCOG	Conduct one-time check of the construction contract before contract is executed. Conduct one-time survey before construction begins. Transplant or plant elderberry shrubs during dormant season (November 1 through February 15). Conduct field-checks, as needed, to confirm adherence to mitigation measures.	

Impact	Mitigation Measure	Action(s)	Implementing Party	Timing	Completion of Implementation
	of the site or otherwise affecting the vigor or likelihood of survival of elderberry shrubs. ▶ The City and its construction contractor will ensure that project activities, such as truck traffic or other use of machinery, do not create excessive dust on the project site, such that the growth or vigor of elderberry shrubs is adversely affected. Enforcing a speed limit and watering dirt roadways are examples of methods that may be used to ensure that excessive dust is not created. ▶ Areas that are disturbed temporarily will be restored to predisturbance conditions (e.g., matching preconstruction contours, slopes, and drainage patterns). Erosion control measures (e.g., use of hay bales, filter fences, or other accepted equivalents) will be installed around disturbed areas within 100 feet of the dripline of elderberry shrubs. ▶ No insecticides, herbicides, fertilizers, or other chemicals will be used within 100 feet of the dripline of elderberry shrubs. c) The following measures will be implemented for any elderberry shrubs that cannot be avoided and removed from the project site: ▶ All elderberry shrubs with evidence of valley elderberry longhorn beetle exit holes (as determined during the preconstruction survey) that cannot be avoided during project construction will be transplanted by the City to a U.S. Fish and Wildlife Service- (USFWS-) approved valley elderberry longhorn beetle mitigation site during the dormant period for elderberry shrubs (November 1 through February 15). ▶ If elderberry shrubs with evidence of valley elderberry longhorn beetle exit holes cannot be transplanted, the City will provide mitigation within SJMSCP preserves at a ratio of three new plants for each stem 1 inch in diameter or greater (as determined during the preconstruction survey) to be removed from the project site. For all elderberry shrubs without exit holes that cannot be avoided during project construction, the City will provide mitigation within SJMSCP preserves at a ratio of three new plants for each stem 1 inch in diameter or greater (as determined during the preconstruction survey) to be removed from the project site.				

Impact	Mitigation Measure	Action(s)	Implementing Party	Timing	Completion of Implementation
Impact 3.3-2: Cause Disturbance to or Loss of Western Pond Turtle	**Mitigation Measure 3.3-2: Conduct Western Pond Turtle Preconstruction Survey and Relocation** The City will implement the following measures to avoid potentially significant impacts on western pond turtle, consistent with the avoidance and minimization measures in the SJMSCP. All mitigation listed below will be limited to construction within 0.3 mile of suitable aquatic habitat: ▶ A preconstruction survey for western pond turtle shall be conducted by a qualified biologist before work is conducted in aquatic habitat suitable for the species. If no pond turtles are observed, no further mitigation is necessary. ▶ During coffer dam installation and draining of the proposed new outfall location, a qualified biologist shall be present to survey for western pond turtles. If pond turtles are observed, a qualified biologist, with approval from California Department of Fish and Wildlife (CDFW), shall relocate pond turtles to the nearest area with suitable aquatic habitat that will not be disturbed by project-related construction activities. ▶ If nesting areas for pond turtles are identified on the project site, a buffer area of 300 feet shall be established around the nesting site (which may be immediately adjacent to the river or extend up to 400 feet away from the river in uplands). These buffers shall be indicated by temporary fencing if construction has or will begin before nesting periods have ended. (The period from egg laying to emergence of hatchlings is normally April to November.)	Confirm that the mitigation measure is included in the construction contract before contract is executed. Confirm that a qualified biologist has conducted a preconstruction survey. If pond turtles are observed during coffer dam installation or draining of the proposed new outfall location, confirm that a qualified biologist has relocated them before construction begins to the nearest area with suitable aquatic habitat that will not be disturbed by project-related construction activities. If nesting areas for pond turtles are identified on the project site, confirm that a buffer area of 300 feet has been established and maintained around the nesting site before and during construction.	City of Lathrop Public Works Department and through coordination with SJCOG	Conduct one-time check of the construction contract before contract is executed. Conduct one-time survey before construction begins. Conduct field-checks, as needed, to confirm that the qualified biologist is relocating turtles and establishing buffers around nesting areas as the need arises. Conduct field-checks, as needed, to confirm that buffers around nesting areas are established during the period from egg laying to emergence of hatchlings (normally April to November).	
Impact 3.3-3: Cause Disturbance to or Loss of Swainson's Hawk, White-Tailed Kite, Cooper's Hawk, Sharp-Shinned Hawk, and Other Nesting Raptors	**Mitigation Measure 3.3-3: Protect Swainson's Hawk, White-Tailed Kite, Cooper's Hawk, Sharp-Shinned Hawk, and Other Nesting Raptors** The City will implement the following measures consistent with the SJMSCP to avoid, minimize, and mitigate impacts on Swainson's hawk, white-tailed kite, Cooper's hawk, sharp-shinned hawk, and other nesting raptors: ▶ Although no tree removals are anticipated, if removal of a known nest tree is required, it shall be removed between September 16 and February 14. If removal of the tree occurs between November 1 and February 14, a qualified biologist will be retained to conduct a preactivity survey of the tree because	Confirm that the mitigation measure is included in the construction contract before contract is executed. Confirm that a qualified biologist has conducted a preactivity survey for great horned owl in any known nest tree to be removed between November 1 and February 14. Confirm that a qualified biologist has conducted preconstruction	City of Lathrop Public Works Department and through coordination with SJCOG and CDFW (if active raptor nests are present)	Conduct one-time check of the construction contract. Conduct preactivity surveys for great horned owl between November 1 and February 14. Conduct preconstruction surveys for active nests no more than 14 days and no less	

Impact	Mitigation Measure	Action(s)	Implementing Party	Timing	Completion of Implementation
	great horned owls start nesting early and could occupy hawk nests early in the season. ▶ If project activity would commence between February 15 and September 15, a qualified biologist will be retained to conduct preconstruction surveys for active nests on and within 0.5 mile of the project site no more than 14 days and no less than 7 days before work begins. ▶ If an occupied nest is present, CDFW guidelines recommend implementation of 0.25-mile buffer for Swainson's hawk in developed areas and a 500-foot buffer for other raptors, but the size of the buffer may be adjusted if a qualified biologist and CDFW determine that reducing the buffer size would not be likely to adversely affect the nest. No project activity will commence within the buffer area until a qualified biologist confirms that the nest is no longer active or that the young have fully fledged. Monitoring of the nest by a qualified biologist will be required if the activity has potential to adversely affect the nest. If construction activities cause the nesting bird to vocalize, make defensive flights at intruders, get up from a brooding position, or fly off the nest, then the no-disturbance buffer shall be increased until the agitated behavior ceases.	surveys for active nests on and within 0.5 mile of the project site before construction begins if project activity would commence between February 15 and September 15. If an occupied nest is present, confirm that a buffer around the nest tree is established, the size to be determined by a qualified biologist and CDFW. Confirm that a qualified biologist monitors the nest if activity has potential to adversely affect it. If construction activities cause the nesting bird to exhibit agitated behavior, confirm that the no-disturbance buffer is increased until the behavior ceases.		than 7 days before work begins if project activity would commence between February 15 and September 15. Conduct field-checks, as needed, to confirm that buffers are established and, if necessary, increased and that nests are monitored during activities in the vicinity of occupied nests.	
Impact 3.3-4: Cause Disturbance to or Loss of Loggerhead Shrike, California Horned Lark, and Other Nesting Birds	**Mitigation Measure 3.3-4: Protect Loggerhead Shrike, California Horned Lark, and Other Nesting Birds** Consistent with the avoidance and minimization measures in the SJMSCP, the City will implement the following measures to reduce impacts on loggerhead shrike, California horned lark, and other nesting birds: a) A qualified biologist shall conduct a preconstruction survey for any project activity that would occur during the nesting bird season (February 1–August 31) and within 100 feet of suitable nesting habitat, including shrubs, riparian vegetation, trees, and barren areas within the CTF. The survey shall be conducted within 14 days before project activity begins. b) If no loggerhead shrike, California horned lark, or other nesting birds are found, no further mitigation is required. If active nests are found, the qualified biologist shall establish a	Confirm that the mitigation measure is included in the construction contract before contract is executed. Confirm that a qualified biologist has conducted a preconstruction survey for any project activity that would occur during the nesting season and within 100 feet of suitable nesting habitat. If active nests for loggerhead shrike, California horned lark, or other nesting birds are found, confirm that the qualified biologist has established a no-disturbance buffer	City of Lathrop Public Works Department and through coordination with SJCOG and CDFW (if nesting birds are present)	Conduct one-time check of the construction contract before the contract is executed. Conduct preconstruction survey during the nesting season (February 1–August 31) within 14 days before project activity begins. Establish no-disturbance buffers around the nest locations before construction begins for	

Impact	Mitigation Measure	Action(s)	Implementing Party	Timing	Completion of Implementation
	no-disturbance buffer around the nest location. A setback of 100 feet from nesting areas for loggerhead shrike shall be established and maintained during the nesting season for the period encompassing nest building and continuing until fledglings leave nests. This setback applies whenever construction or other ground-disturbing activities must begin during the nesting season in the presence of nests that are known to be occupied. Setbacks shall be marked by brightly colored temporary fencing. For other protected birds, the qualified biologist shall determine the buffer distance based on bird species; listing status; and other factors, including distance from construction activity, type and duration of construction, and whether the nest in within the line of sight of construction activity. The size of the buffer may be adjusted if the qualified biologist and the City, in consultation with CDFW, determine that such an adjustment would not be likely to adversely affect the nest.	around the nest location. The size of the buffer may be adjusted if the qualified biologist and the City, in consultation with CDFW, determine that such an adjustment would not be likely to adversely affect the nest.		the period encompassing nest building and continuing until fledglings leave the nests. This setback would apply whenever construction or other ground-disturbing activities must begin during the nesting season in the presence of nests that are known to be occupied.	
Impact 3.3-5: Cause Disturbance to or Loss of Riparian Brush Rabbit	**Mitigation Measure 3.3-5: Protect Riparian Brush Rabbit** The City will consult with the USFWS under ESA and with CDFW under CESA to obtain the required incidental take authorizations, if needed, and implement the following measures to avoid and minimize impacts on riparian brush rabbit: ▶ Levee construction and staging areas will be identified in construction drawings, and exclusion fencing will be installed to delineate their boundaries. Exclusion fencing will be maintained/repaired through the length of construction. ▶ Where suitable riparian brush rabbit habitat is adjacent to staging and construction areas, this habitat will be identified as an environmentally sensitive area in construction drawings and will be flagged with exclusion flagging in the field. Construction personnel, vehicles, and equipment must remain within the identified construction/staging area and outside of the environmentally sensitive area. ▶ Where construction or staging activities would occur within suitable riparian brush rabbit habitat, vegetation within the habitat will be removed by hand (with hand tools or hand-operated power equipment) at least 2 weeks before	Confirm that the mitigation measure is included in the construction contract before the contract is executed. Confirm that the City consulted with USFWS and CDFW to obtain the required incidental take authorizations, if needed, and identified additional mitigation measures if necessary before construction begins. Verify that levee construction and staging areas are identified in construction drawings and that exclusion fencing is installed to delineate their boundaries before construction begins. Verify that suitable riparian brush rabbit habitat, where it is adjacent to staging and construction areas, is	City of Lathrop Public Works Department through consultation with USFWS and CDFW, if needed for second and third measures	All timing below will be confirmed through consultation with USFWS and CDFW, if needed. Conduct one-time check of the construction contract before the contract is executed. Conduct consultation with USFWS and CDFW and obtain incidental take authorization and/or confirm mitigation measures before construction begins. Conduct one-time check to confirm that levee construction and	

Impact	Mitigation Measure	Action(s)	Implementing Party	Timing	Completion of Implementation
	construction-related ground disturbance would occur in the habitat area. Vegetation will be cut to ground level and maintained at ground level throughout the construction period to deter use of the area by riparian brush rabbits. ▶ Before ground-disturbing activities begin, a silt fence or other suitable temporary barrier that will exclude brush rabbits from the construction area will be installed around the construction/staging area where it borders or is located within suitable habitat. Temporary signage will be placed along the rabbit exclusion fence at 150-foot intervals, warning contractors to stay within the construction area. The temporary rabbit exclusion fence and associated signage will be inspected by a qualified biologist each morning before beginning construction activities and repaired and maintained as necessary. The temporary rabbit exclusion fence and signage will be removed after construction activities are no longer required in the exclusion area. ▶ While construction is underway, a biological monitor will conduct daily surveys of the construction area before the start of activities for the day to determine whether riparian brush rabbits are within the construction area. If riparian brush rabbits are located within the construction area, construction activities will not start until the animal has left the construction area on its own or is removed by an approved permitted biologist. ▶ Trash, including food wrappings, will be removed from the levee construction/staging areas daily to avoid attracting potential predators, such as feral cats, dogs, coyote, or foxes to the area. Additional measures may be developed with USFWS and CDFW during the consultation process. These measures may include, but would not be limited to, compensation for disturbance to or loss of habitat, implementation of a trapping program to remove feral animals and rats from the Mossdale Oxbow Preserve, and coordination to assist with the USFWS captive breeding program. Compensation for disturbance to or loss of habitat could include enhancement of existing habitat and creation of additional habitat, including development and implementation of a riparian vegetation restoration plan after construction along the levee has	identified as an environmentally sensitive area in construction drawings and flagged with exclusion fencing before construction begins. Confirm that exclusion fencing is maintained/repaired during construction. Where construction or staging activities would occur within suitable riparian brush rabbit habitat, confirm that vegetation in the habitat is removed by hand before construction or staging activities occur. Vegetation will be cut to ground level and maintained at ground level. Confirm that a silt fence or other suitable temporary barrier that will exclude brush rabbits from the construction area is installed around the construction/staging area where it borders or is located in suitable habitat before construction or staging activities occur. Confirm that temporary signage is placed before construction begins along the rabbit exclusion fence at 150-foot intervals, warning contractors to stay within the construction area. Confirm that the temporary rabbit exclusion fence and associated signage are inspected by a qualified biologist and that it is repaired and maintained as necessary during construction. Confirm that the temporary rabbit		staging areas are identified in construction drawings and that exclusion fencing was installed before construction begins. Conduct one-time check to confirm that suitable riparian brush rabbit habitat is identified as an environmentally sensitive area in construction drawings and flagged with exclusion fencing before construction begins. Field-check as needed throughout construction to confirm that exclusion fencing is being maintained. Remove vegetation in suitable riparian brush rabbit habitat at least 2 weeks before construction-related ground disturbance would occur in the habitat area. Cut vegetation to ground level and maintain at ground level throughout the construction period. Install the silt fence or other suitable temporary barrier before ground-	

Impact	Mitigation Measure	Action(s)	Implementing Party	Timing	Completion of Implementation
	been completed.	exclusion fence and signage are removed after construction activities are no longer required in the exclusion area. Confirm that a qualified biologist monitors the construction area with daily surveys during construction to determine whether riparian brush rabbits are in the construction area, and if riparian brush rabbits are located in the construction area, that construction activities are halted until the animal has left the construction area on its own or is removed by an approved permitted biologist. Confirm that trash is removed from the levee construction/staging areas during and after construction.		disturbing activities begin. Field-check as needed during construction to confirm that temporary signage is in place along the rabbit exclusion fence at 150-foot intervals. The biological monitor will inspect the temporary rabbit exclusion fence and associated signage each morning before beginning construction activities and repair and maintain as necessary. Field-check to confirm that the temporary rabbit exclusion fence and signage are removed after construction activities are no longer required in the exclusion area. The biological monitor will conduct surveys of the construction area daily, before the start of activities for the day. Remove trash from the levee construction/ staging areas daily.	
Impact 3.3-6: Cause Disturbance to and Loss of Waters of the United States and State	**Mitigation Measure 3.3-6: Compensate for Loss of Waters of the United States and State** The City will implement the following measures to compensate	Confirm the exact acreage of waters of the United States and waters of the state that would be filled as a result of project implementation	City of Lathrop Public Works Department in consultation	Conduct one-time check to confirm that the correct acreage is	

Impact	Mitigation Measure	Action(s)	Implementing Party	Timing	Completion of Implementation
	for the loss of waters of the United States and state: a) The City submitted the aquatic resources delineation report to U.S. Army Corps of Engineers (USACE), and requested a jurisdictional determination. Based on the jurisdictional determination, the City will confirm the exact acreage of waters of the United States and waters of the state that would be filled as a result of project implementation. b) The City will replace on a "no net loss" basis (minimum 1:1 ratio) (in accordance with USACE and/or Central Valley Regional Water Quality Control Board [Central Valley RWQCB]) the acreage and function of all wetlands and other waters that would be removed, lost, or degraded as a result of project implementation. Wetland habitat will be replaced or enhanced at a location acceptable to or approved by USACE and the Central Valley RWQCB, either on-site, by participation in the National Fish and Wildlife Foundation in-lieu fee program, by the purchase of mitigation credits at an approved mitigation bank (e.g., Cosumnes Floodplain Mitigation Bank), or any combination thereof. The acreage and location of mitigation will be determined during the Section 401 and Section 404 permitting processes. c) The City will obtain a USACE Section 404 permit and RWQCB Section 401 water quality certification before any groundbreaking activity within 50 feet of any wetland or water of the United States or state. The City will implement all permit conditions. d) A dewatering and diversion plan for the San Joaquin River will be developed as necessary. No groundbreaking activities will occur until the dewatering and diversion plan has been approved by the resource agencies.	with USACE prior to permit issuance. Confirm that the City consulted with USACE and the Central Valley RWQCB prior to construction to ensure no net loss in the acreage and function of all wetlands and other waters that would be removed, lost, or degraded as a result of project implementation. Confirm that the City obtained a USACE Section 404 permit and RWQCB Section 401 water quality certification prior to construction. Verify that the City implements all permit conditions during construction. Confirm that a dewatering and diversion plan for the San Joaquin River is developed and approved as necessary prior to construction. Confirm that the dewatering and diversion plan for the San Joaquin River is implemented during construction	with the USACE and Central Valley RWQCB	identified in the permits. Consult with USACE and the Central Valley RWQCB prior to permit issuance to determine the acreage and location of mitigation. Obtain the 404 permit and Section 401 water quality certification before any groundbreaking activity within 50 feet of any wetland or water of the United States or state. Field-check as needed to confirm that all permit conditions are implemented. Confirm development and approval of the dewatering and diversion plan before groundbreaking activities begin. Field-check as needed to confirm implementation of the dewatering and diversion plan during construction	
Impact 3.3-7: Cause Disturbance to or Loss of Riparian Habitat	**Mitigation Measure 3.3-7: Minimize and Compensate for the Loss of Riparian Habitat** The City will implement the following measures, which in addition to others, include the incidental take and avoidance measures in the SJMCSP for riparian habitat:	Confirm the use of appropriate erosion control measures prior to and during construction. Confirm that emergent and submergent aquatic vegetation is	City of Lathrop Public Works Department and through coordination with SJCOG	Field-check as needed prior to and during construction to confirm that appropriate erosion control measures are	

Impact	Mitigation Measure	Action(s)	Implementing Party	Timing	Completion of Implementation
	▶ Require appropriate erosion control measures (e.g., use hay bales, filter fences, vegetative buffer strips, or other accepted equivalents) to reduce the amount of siltation and contaminated runoff from the project site. ▶ Retain emergent (rising out of water) and submergent (covered by water) vegetation. ▶ Retain vegetation as practical within the constraints of the proposed development as determined by the SJMSCP Joint Powers Authority with the concurrence of the permitting agencies' representatives on the Technical Advisory Council. Rapidly sprouting plants, such as willows, should be cut off at the ground and root systems left intact, when removal is necessary. ▶ The City will submit a notification of lake and streambed alteration to CDFW for work within the bed, bank or channel of the San Joaquin River. ▶ The acreage of valley oak woodland and forest habitat removed will be replaced or restored/enhanced at a minimum 1:1 ratio with habitat comprising ecological conditions similar to those provided by the habitat removed from the project site, including similar species composition and diversity and functional organization. Habitat restoration, enhancement, and/or replacement will be at a location and by methods acceptable to SJMSCP staff and/or CDFW. This may include on-site restoration of riparian habitat, purchase of mitigation credits at a CDFW-approved mitigation bank (e.g., Cosumnes Floodplain Mitigation Bank), or a combination of these. ▶ Compensatory mitigation requirements in compliance with the SJMSCP will be calculated from the edge of a 100-foot buffer zone to the edge of the riparian vegetation as it extends into the river.	retained prior to construction. Confirm that terrestrial vegetation is retained as practical within the constraints of the proposed development as determined by the SJMSCP Joint Powers Authority with the concurrence of the permitting agencies' representatives on the Technical Advisory Council prior to and during construction. Confirm that a notification of lake and streambed alteration is submitted to CDFW prior to construction. Confirm before the start of construction that the acreage of valley oak woodland and forest habitat removed will be replaced or restored/enhanced at a minimum 1:1 ratio at a location and by methods acceptable to SJMSCP staff and/or CDFW prior to project completion. Confirm that the compensatory mitigation requirements in compliance with the SJMSCP are calculated from the edge of a 100-foot buffer zone to the edge of the riparian vegetation as it extends into the river prior to implementing compensatory mitigation.	and CDFW, if needed	implemented. Field-check as needed prior to and during construction to confirm that emergent and submergent vegetation is retained. Field-check as needed prior to and during construction to confirm that vegetation was retained within the constraints of the proposed development as determined by the SJMSCP Joint Powers Authority with the concurrence of the permitting agencies' representatives on the Technical Advisory Council. Conduct one-time check to confirm that a notification of lake and streambed alteration to CDFW is submitted prior to construction. Confirm that the acreage of valley oak woodland and forest habitat removed is replaced or restored/enhanced prior to project completion. Confirm compensatory mitigation requirements	

Impact	Mitigation Measure	Action(s)	Implementing Party	Timing	Completion of Implementation
				in compliance with the SJMSCP are calculated from the edge of a 100-foot buffer zone to the edge of the riparian vegetation as it extends into the river prior to implementing compensatory mitigation.	
3.4 Aquatic Biological Resources					
Impact 3.4-2: Cause Direct Fish Injury or Mortality during Construction Resulting in Impacts on Fish Populations	**Mitigation Measure 3.4-2: Conduct Fish Rescue and Relocation Operation** The City will implement the following measures to avoid, minimize, and mitigate this potentially significant impact on San Joaquin River special-status fishes: ▶ A fish rescue operation will be completed as water elevations within the coffer dam reach low levels. Fish rescue will be completed by qualified biologists using dip and seine nets to remove any fish remaining within the coffer dam. All fish rescued from inside the coffer dam will be placed in the San Joaquin River away from construction activities. ▶ Once the dewatered area has been deemed free of any entrained fishes, the area will be completely dewatered using the submersible pumps. Depending on the amount of leakage between the sheet piles, the submersible pumps may have to be operated at regular intervals to keep the work area dry.	Confirm that the mitigation measure is included in the construction contract before contract is executed. Confirm that qualified biologists complete a fish rescue to remove any fish remaining in the coffer dam during construction. Confirm, after the dewatered area has been deemed free of any entrained fishes, that the area was completely dewatered using the submersible pumps.	City of Lathrop Public Works Department	Conduct one-time check of the construction contract before contract is executed. Complete the fish rescue operation as water elevations in the coffer dam reach low levels. Completely dewater the coffer dammed area after it has been deemed free of any entrained fishes.	
3.5 Cultural, Tribal Cultural, and Paleontological Resources					
Impact 3.5-2: Cause a Substantial Adverse Change in the Significance of Archaeological Resources	**Mitigation Measure 3.5-2: Implement Inadvertent Discovery Measures for the Protection of Archaeological Resources** If any prehistoric or historic-era subsurface archaeological features or deposits, including locally darkened soil ("midden"), that could conceal cultural deposits are inadvertently discovered during project-related construction activities, all ground-	Confirm that the mitigation measure is included in the construction contract before contract is executed. If any prehistoric or historic-era subsurface archaeological features	City of Lathrop Public Works Department in consultation with the appropriate	Conduct one-time check of the construction contract before contract is executed. Field-check as needed to confirm temporary	

Impact	Mitigation Measure	Action(s)	Implementing Party	Timing	Completion of Implementation
	disturbances within a minimum of 50 feet of the find shall be halted until a qualified professional archaeologist can evaluate the discovery. The archaeologist shall examine the resources, assess their significance, and recommend appropriate procedures to the lead agency to either further investigate or mitigate adverse impacts (e.g., adverse effect on a significant historical resource). If the qualified archaeologist determines the archaeological material to be Native American in nature, the City shall contact the appropriate California Native American tribe (i.e., Buena Vista Rancheria Me-Wuk Indians and North Valley Yokuts Tribe) for their input on the preferred treatment of the find. If the find is determined to be a unique archaeological resource and it cannot be avoided, then appropriate procedures to protect the integrity of the resource shall be applied (e.g., preservation in place, data recovery program pursuant to PRC Section 21083.2[i]). During evaluation or mitigative treatment, ground-disturbance and construction work may continue on other parts of the project site. The California State Lands Commission (CSLC) shall approve the final disposition of any archaeological, historical, and paleontological resources recovered on state lands under the CSLC jurisdiction.	or deposits are encountered during construction, confirm that all construction activities within a minimum of 50 feet of the find stop and that a qualified professional archaeologist is contacted. No ground disturbance or construction work in the vicinity of any inadvertent discoveries may occur until evaluation or mitigative treatment, as applicable, is completed. If the qualified archaeologist determines the archaeological material to be Native American in nature, confirm that the appropriate California Native American tribe (i.e., Buena Vista Rancheria Me-Wuk Indians and North Valley Yokuts Tribe) is contacted for their input on the preferred treatment of the find. If the find is determined to be a unique archaeological resource and it cannot be avoided, apply appropriate procedures to protect the integrity of the resource.	Native American Tribe and CSLC, if resources are found	construction stoppage within buffer zone. The archaeologist shall specify the timing/ frequency of additional monitoring, as appropriate. Conduct one-time check to confirm that the appropriate California Native American tribe is contacted. Field-check as needed to confirm that the appropriate procedures to protect the integrity of the resource are applied.	
Impact 3.5-3: Cause a Substantial Adverse Change in the Significance of a Tribal Cultural Resource	**Mitigation Measure 3.5-3: Implement Inadvertent Discovery Measures for the Protection of Tribal Cultural Resources** Implement Mitigation Measure 3.5-2.	Confirm that the mitigation measure is included in the construction contract before contract is executed. If any tribal cultural resources are encountered, confirm that all construction activities within a minimum of 50 feet of the find stop and that a qualified professional archaeologist is contacted. No ground disturbance or construction	City of Lathrop Public Works Department in consultation with the appropriate Native American Tribe, if resources are found	Conduct one-time check of the construction contract before contract is executed. Field-check as needed to confirm temporary construction stoppage within buffer zone. The archaeologist shall specify the timing/ frequency of additional	

Impact	Mitigation Measure	Action(s)	Implementing Party	Timing	Completion of Implementation
		work in the vicinity of any inadvertent discoveries may occur until evaluation or mitigative treatment, as applicable, is completed. If the qualified archaeologist determines the archaeological material to be a tribal cultural resource, confirm that the appropriate California Native American tribe (i.e., Buena Vista Rancheria Me-Wuk Indians and North Valley Yokuts Tribe) is contacted for their input on the preferred treatment of the find. If the find is determined to be a tribal cultural resource and it cannot be avoided, confirm that appropriate procedures are applied to protect the integrity of the resource.		monitoring, as appropriate. Conduct one-time check to confirm that the appropriate California Native American tribe is contacted. Field-check as needed to confirm that the appropriate procedures to protect the integrity of the resource are applied.	
Impact 3.5-4: Disturb Human Remains	**Mitigation Measure 3.5-4: Implement Inadvertent Discovery Measures for the Protection of Human Remains** If human remains are discovered during project-related ground-disturbance, all work within a minimum of 50 feet of the discovery site shall halt immediately. The lead agency shall notify the County Coroner, as stipulated in Section 7050.5 of the California Health and Safety Code. The Coroner shall determine whether the remains are Native American and, if so, contact the NAHC by telephone within 24 hours. The NAHC shall follow the stipulations in Section 5097.98 of the California Public Resources Code, including determination of a most likely descendant. If the NAHC is unable to identify a descendant, the descendant is unable to make a recommendation, or the landowner rejects the recommendation, the NAHC shall mediate any dispute between the parties. Where such mediation fails to provide measures acceptable to the landowner, the landowner shall reinter the human remains and associated funerary items with appropriate dignity on the property, in a location not subject to further	Confirm that the mitigation measure is included in the construction contract before contract is executed. If any human remains are encountered, confirm that all construction activities within a minimum of 50 feet of the discovery site stop and that the county coroner is contacted. No ground disturbance or construction work in the vicinity of any inadvertent discoveries may occur until evaluation or mitigative treatment, as applicable, is completed. If the human remains are determined to be Native American,	City of Lathrop Public Works Department in consultation with the County Coroner and the Native American Heritage Commission, if human remains are found	Conduct one-time check of the construction contract before contract is executed. Field-check as needed to confirm temporary construction stoppage within buffer zone. Conduct one-time check to confirm that NAHC was contacted. NAHC shall specify the timing/ frequency of additional monitoring, as appropriate.	

Impact	Mitigation Measure	Action(s)	Implementing Party	Timing	Completion of Implementation
	subsurface disturbance.	contact NAHC by telephone within 24 hours. NAHC shall attempt to locate the most likely descendant. If one is not identified or there is any dispute about how the remains will be addressed, NAHC shall provide mediation.			
3.8 Hazards and Hazardous Materials					
Impact 3.8-1: Create a Significant Health Hazard from the Routine Transport, Use, or Disposal of Hazardous Materials, Including Reasonably Foreseeable Upset or Accidents	**Mitigation Measure 3.8-1: Implement Mitigation Measure 4.14.-1, "Existing Hazardous Materials/Waste Sites," Incorporated by Reference into the 2013 CTF IS/MND** Prior to the development of proposed pipelines/facilities, the City shall have performed a records search of government-recorded hazardous waste sites to identify any proposed pipelines/facilities that bisect recorded hazardous waste sites. In cases where proposed pipelines/facilities intersect recorded hazardous waste sites, or where any soil discoloration, vapors, or other signs of potential contamination exist at the construction sites for these facilities, a qualified consultant shall monitor excavations with an organic vapor analyzer. Soils that exhibit elevated readings, odor, or visual evidence of contamination shall be sampled for laboratory analysis. If the samples are found to be contaminated above Department of Toxic Substances Control (DTSC) acceptable levels, the subject soils at the construction sites for the proposed pipelines/facilities shall be excavated, segregated, treated (if required), and disposed of in accordance with DTSC requirements.	Confirm that a records search of government-recorded hazardous waste sites is conducted prior to construction. In cases where proposed pipelines/facilities intersect recorded hazardous waste sites, or where any soil discoloration, vapors, or other signs of potential contamination exist at the construction sites for these facilities, confirm that a qualified consultant monitors excavations with an organic vapor analyzer. Confirm that soils exhibiting elevated readings, odor, or visual evidence of contamination are sampled for laboratory analysis. If the samples are found to be contaminated above DTSC acceptable levels, confirm that the subject soils are excavated, segregated, treated (if required), and disposed of in accordance with DTSC requirements.	City of Lathrop Public Works Department in consultation with DTSC, if needed	Conduct the records search before the development of proposed pipelines/facilities. Field-check to confirm that a qualified consultant monitors excavations with an organic vapor analyzer where needed. Conduct one-time check to confirm that soils exhibiting elevated readings, odor, or visual evidence of contamination are sampled for laboratory analysis. Field-check as needed to confirm that subject soils are excavated, segregated, treated (if required), and disposed of in accordance with DTSC requirements.	

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CITY OF LATHROP

PLANNING COMMISSION RESOLUTION NO. 21-6

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LATHROP MAKING A FINDING OF CONSISTENCY WITH THE GENERAL PLAN FOR THE LATHROP CONSOLIDATED TREATMENT FACILITY SURFACE WATER DISCHARGE CAPITAL IMPROVEMENT PROJECT (WW 20-17)

WHEREAS, the City of Lathrop Planning Commission held a duly noticed public meeting to consider the Consolidated Treatment Facility Surface Water Discharge Capital Improvement Project (WW 20-17); and

WHEREAS, the City of Lathrop originally adopted a Comprehensive General Plan on December 17, 1991, which has been updated from time to time and includes specific policies and objectives for infrastructure, construction and maintenance of public facilities; and

WHEREAS, pursuant to California Government Code Section 65401, the Planning Commission is required to review Capital Improvement Program to determine that it is consistent with the City's adopted General Plan; and

WHEREAS, the environmental impacts of the Consolidated Treatment Facility Surface Water Discharge Project were addressed in an Environmental Impact Report (SCH #2019110339) certified by the City Council on March 8, 2021. The City has determined that the potential environmental effects of the project have been addressed in this certified EIR.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission finds that the CTF Surface Water Discharge Project is consistent with the City's General Plan goal to provide wastewater treatment plant capacity to accommodate buildout of the land uses contemplated in the Land Use Element of the General Plan.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Lathrop based on substantial evidence in the administrative record of proceedings, its findings above and pursuant to its independent review and consideration, does hereby find that the proposed Consolidated Treatment Facility Surface Water Discharge Project (WW 20-17), is consistent with the adopted City of Lathrop General Plan.

PASSED AND ADOPTED by the Planning Commission of the City of Lathrop at a Regular Meeting on the 17th day of March, 2021 by the following vote:

AYES: Dresser, Rhodes, Gatto, Ishihara

NOES: None

ABSTAIN: None

ABSENT: Ralmilay

Steve Dresser, Vice Chair

ATTEST:

Mark Meissner, Secretary

APPROVED AS TO FORM:

Salvador Navarrete, City Attorney

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CITY MANAGER'S REPORT
MARCH 22, 2021 CITY COUNCIL SPECIAL MEETING

ITEM: **APPROVE THE CREATION OF CAPITAL IMPROVEMENT PROJECT GG 21-11 - CREATE THE LATHROP POLICE DEPARTMENT, IMPLEMENT THE TRANSITION OF LAW ENFORCEMENT SERVICES FROM THE COUNTY TO THE CITY AND AUTHORIZE THE RELATED BUDGET AMENDMENT**

RECOMMENDATION: **Adopt a Resolution Approving the Creation of Capital Improvement Project GG 21-11 – Create the Lathrop Police Department, Implement the Transition of Law Enforcement Services and Authorize the Related Budget Amendment**

SUMMARY:

The City of Lathrop has contracted police services with the San Joaquin County Sheriff's Office (SJCSO) since 1990. Most recently, Lathrop executed a five-year contract with the SJCSO on April 17, 2017 that expires on June 30, 2022. For 31 years, the SJCSO has implemented a community-based policing model that has very successfully engaged the community and administered programs geared toward reducing crime while meeting the goals of City Council. The community is grateful to all the hardworking law enforcement men and women that have served Lathrop over the years making the community a safe place to live, work and raise their families.

However, in recent years, the cost of the SJCSO police services has increased annually with the current year's budget rising to over $9 million for 28 sworn officers. The cost increases are mainly due to the unusually high pension cost paid for each officer and the ever-increasing officer startup costs. For instance, we currently pay approximately $2.5 million in pension cost on the SJCSO contract for 28 officers. Lathrop's pension projections are $0.5 million for 33 sworn positions.

At the same time, the new officer startup costs have gone up substantially over time. In Fiscal Year (FY) 13/14 the cost was $219,000, in FY17/18 $294,000 and FY20/21 $355,000. These startup costs are in addition to the annual officer cost, and while the dollars are amortized over 15 years to lessen the impact, they are owed and become part of the annual contract costs.

The proposed SJCSO contract for FY 2021/22 is estimated to be $9.1 million to fund 28 sworn officers. The estimated cost of the new Lathrop Police Department is $8.8 million, and includes 33 sworn officers and 13 non-sworn positions. The table on the following page will show a summary of costs and personnel.

A City Police Department will provide the community with more officers, a lower budget, personalized services, and predictable costs. The Lathrop Police Department will aim to produce an organization that would appeal to local applicants and seek to recruit from within the community. Additional advantages will include promotional opportunities within the department that will help to promote longevity within the organization and in turn familiarity within the community.

	SJ County FY 20/21	Lathrop PD w/ Contract Dispatch
Annual Cost	$9,130,249	$8,823,806
Sworn Personnel	28	33
Non-Sworn Personnel	0	13
Officer Start-Up Costs	$354,763	
Transition Costs		$6,460,333

City Council and Staff have been working diligently for the past decade or so, on achieving financial stability and are confident that today is the ideal time for Lathrop to transition to a city police department. We have evaluated all components of a proper transition and estimate the costs at approximately $6.5 million. These funds are available in a combination of monies set aside in the Police Transition Fund, General Fund and Measure C Fund.

Staff requests City Council consideration to authorize the creation of Capital Improvement Project (CIP) GG 21-11 – Create the Lathrop Police Department, implement the transition of law enforcement services from the County to the City and authorize a budget amendment of $6.5 million.

BACKGROUND:

The City of Lathrop has contracted with the San Joaquin County Sheriff's Office (SJCSO) since 1990. Most recently, Lathrop executed a five-year contract with the SJCSO on April 17, 2017 that expires on June 30, 2022. For 31 years, the SJCSO has implemented a community-based policing model that has very successfully engaged the community and administered programs geared toward reducing crime while meeting the goals of City Council. The community is grateful to all the hardworking law enforcement men and women that have served Lathrop over the years making the community a safe place to live, work and raise their families.

In recent years, the cost of the SJCSO police services has increased annually with the current year's budget rising to over $9 million for 28 sworn officers. The cost increases are mainly due to the unusually high pension cost paid for each officer and the ever-increasing officer startup costs.

In the past, Council has directed police services reviews including possible modifications of the San Joaquin County's contract, contracting with other public agencies for law enforcement services, review of pending development impacts on current law enforcement activities and the feasibility of creating our own Department. Those studies have laid the groundwork from which we will launch the formation of a new City of Lathrop Police Department.

City Council and Staff have been working diligently for the past decade or so on achieving financial stability and are confident that today is the ideal time for Lathrop to transition to a city police department. Since 2010, Council has made difficult fiscal decisions and held the line on staffing requests to set Lathrop up for the success it has reached today. Council has routinely set aside funds for unforeseeable events that prepared the City to effectively endure difficult conditions without affecting its structure and core services.

An example of the forward-thinking actions of the Council could be seen in the creation of the Fiscal Stabilization Reserve to accommodate for unforeseen economic uncertainties associated with the coronavirus pandemic. Through this action the Council was able to set aside $1.5 million to establish a fund that could be used to mitigate the economic ambiguity associated with the coronavirus pandemic. The City has managed to maintain this balance throughout the pandemic by working within their means and adopting a mindset of constant improvement through workflow efficiencies. Additionally, Council has set aside funds in a Public Safety Reserve, to be used to one day assist with the funding of a City Police Department. These efficiencies are warranted to be built upon, and that is the structure in which the Lathrop Police Department will come to fruition.

The full funding of the project will allow the City Manager to establish the Police Department. With the project in place, City Staff will be well positioned to implement the City Council's decision to form the Lathrop Police Department.

The start-up costs associated with the transition to creating the Lathrop Police Department are outlined in the table below:

	Estimated Overlap Costs	Equipment	Total Transition Cost
Hiring Costs	$947,000		
Officer Overlap Costs (1)	$3,458,322		
Non-Sworn Police Staff	$436,590		
Non-Sworn Other Department Staff	$402,221		
Other Costs	$90,800		
Total	**$5,334,933**		
Equipment		$725,400	
Dispatch & Records Equipment, Software, Transition Costs		$400,000	
Total		**$1,125,400**	
Total Transition Costs			**$6,460,333**

(1) Officer Cost are estimated at Step 5 and with family health care premiums. Depending on what kind of officer hired (new recruit, academy grad or lateral), number could be lower.

While the startup costs are significant, the ability to control costs in the future will justify the return on the initial investment. The cost benefit analysis on pension benefits further clarifies the need to transition to a City run police department. The County retirement system currently marks up sworn personnel salary between 81%-99% (based on the officer tier). The City has been quoted by CALPERS (the City's pension provider) a rate of 13.66% of salary for a new Safety Plan. Currently, the City pays for 5 Officers in the County Tier II (PEPRA), 10 Officers in County Tier I (no Cola) and 15 Officers in County Tier I (other), which is higher than Tier II but lower than Tier I (no Cola). See table below for details:

	SJ County						New Lathrop Police	Savings Per Officer	
	Tier I (No Cola)+5%			Tier II (PEPRA)+5%			PEPRA	Tier I vs City	Tier II vs City
Fiscal Year	13/14	17/18	20/21	13/14	17/18	20/21			
Percent	67.33%	85.08%	99.15%	51.81%	68.58%	81.74%	13.66%		
Officer	$59,546	$75,244	$87,687	$45,820	$60,651	$72,290	$14,346	$73,341	$57,944
Sergeant	$98,296	$124,209	$144,750				$17,215	$127,535	
Lieutenant	$112,154	$141,721	$165,158				$21,451	$143,707	
Chief	$129,090	$163,121	$190,097				$24,730	$165,367	
Total FY 21/2 County Pension Cost are $2.5m							Annual City Pension Cost will be $0.5m.		

The proposed SJCSO contract for FY 2021/22 is estimated to be $9.1 million to fund 28 sworn officers. The estimated cost of the new Lathrop Police Department is $8.8 million, and includes 33 sworn officers and 13 non-sworn position. The non-sworn staff will include multiple community services officers, records personnel and a crime analyst, to name a few. These positons will further help Lathrop residents with quality of life issues that may not meet the threshold for a sworn staffing response.

	SJ County 20/21	New City of Lathrop
Chief	1	1
Lieutenants	1	2
Sergeants	2	6
Detectives	2	2
Officers (1)	22	22
Total Sworn	**28**	**33**
Non-Sworn PD (2)	3	7
Non-Sworn City (3)	0	6
Total	31	46

(1) Includes Patrol, CIT, CRO, SRO, K9 & Motor.
(2) Includes CSO, Crime Analyst and Records personnel.
(3) Includes IT, Payroll, and HR personnel.

Another area of significant savings over the current San Joaquin County contract is in the startup costs associated with hiring new sworn staff. The County charges $355,000 in startup costs for each new officer regardless of whether it is a new recruit, academy grad or a lateral from another agency. The charge is amortized over 15 years. When adding officers to the force, this dramatically inflates the financial obligation owed on the contract.

The fully burdened costs to provide sworn staffing through the County contract are significantly higher than a City officer. Currently, a fully burden County officer at top step costs the City about $216,190, that same officer takes home about $86,800 annually. A fully burden proposed Lathrop officer at top step would cost the City about $151,500 and the officer would take home about $105,000 annually. The higher County costs are further compounded by County overhead and administration costs. These overhead costs are questionable under current state law and have driven the county agreement cost higher and higher. In the current budget they have amounted to more than $400,000 per year. Because the City's pension cost will be significantly lower than what is currently paid, we will be able to offer a higher take home salary in the hopes of attracting qualified and experienced officers.

Establishment of the Lathrop Police Department will also bring other benefits that are less measurable. For example, staff anticipates improved coordination with code enforcement, animal control, Lathrop-Manteca Fire and other City services. In a similar manner, a municipal police department will also provide the public with better access to police services since there would be a Police Chief reporting directly to the City Manager in the City. This differs from the current reporting model, where the assigned Sheriff's Office staff has a chain of command within the Sheriff's Office and City Hall.

Staff requests City Council consideration to authorize the creation of Capital Improvement Project (CIP) GG 21-11 – Create the Lathrop Police Department, Implement the transition of law enforcement services from the County to the City and authorize a budget amendment of $6.5 million.

REASON FOR RECOMMENDATION:

With Lathrop's economy and population continuing to grow, there comes a time when moving forward with our own police department makes economic sense. A City Police Department will provide the community with more officers, a lower budget, personalized services, and predictable costs. Any one of these reasons are legitimate enough to start our own Department, but with all of them in play it has become apparent that right now is the optimal time to start the transition. The City's tax base and development activity have become solid indicators that Lathrop is poised for starting its own Police Department to provide the community the high level of service that they have come to expect from City Hall. For those reasons, Staff recommends the City Council authorize the formation of a project to start a municipal police department, and direct the city manager to immediately begin implementation.

FISCAL IMPACT:

Start-up costs for the Lathrop Police Department are estimated at $6.5 million. Staff has identified sufficient existing funding sources to seed the proposed project formation. The General Fund funding sources identified include $3.25 million from development collected police startup costs, fund balance that had previously been committed to public safety reserves and one-time sales tax revenues that have been collected in the current fiscal year. The remaining $3.25 million will come from the Measure C Fund and will include Measure C public safety reserves and Measure C unassigned fund balance.

ATTACHMENTS:

Resolution

APPROVALS:

Thomas Hedegard
Deputy Finance Director

3/19/21
Date

Cari James
Director of Finance and
Administrative Services

3/19/2021
Date

Salvador Navarrete
City Attorney

3/19/2021
Date

Stephen Salvatore
City Manager

3·19·2021
Date

RESOLUTION NO. 21-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP APPROVING THE CREATION OF CAPITAL IMPROVEMENT PROJECT GG 21-11 - CREATE THE LATHROP POLICE DEPARTMENT, IMPLEMENT THE TRANSITION OF LAW ENFORCEMENT SERVICES FROM THE COUNTY TO THE CITY AND AUTHORIZE THE RELATED BUDGET AMENDMENT

WHEREAS, the City of Lathrop proposes to provide police services to its residents and businesses through a transition process that will establish the Lathrop Police Department; and

WHEREAS, the City of Lathrop has contracted police services with the San Joaquin County Sheriff's Office (SJCSO) since 1990. Most recently, Lathrop executed a five-year contract with the SJCSO on April 17, 2017 that expires on June 30, 2022; and

WHEREAS, for 31 years, the SJCSO has implemented a community-based policing model that has very successfully engaged the community and administered programs geared toward reducing crime while meeting the goals of City Council. The community is grateful to all the hardworking law enforcement men and women that have served Lathrop over the years making the community a safe place to live, work and raise their families; and

WHEREAS, new officer startup costs have gone up substantially over time. In Fiscal Year (FY) 13/14 the cost was $219,000, in FY17/18 $294,000 and FY20/21 $355,000. These startup costs are in addition to the annual officer cost; and

WHEREAS, the proposed SJCSO contract for FY 2021/22 is estimated to be $9.1 million to fund 28 sworn officers. The estimated cost of the new Lathrop Police Department is $8.8 million, and includes 33 sworn officers and 13 non-sworn positions; and

WHEREAS, the City Council and Staff have been working diligently for the past decade or so on achieving financial stability and are confident that today is the ideal time for Lathrop to transition to a city police department. We have evaluated all components of a proper transition and estimate the costs at approximately $6.5 million; and

WHEREAS, with Lathrop's economy and population continuing to grow, there comes a time when moving forward with our own police department makes economic sense. A City Police Department will provide the community with more officers, a lower budget, personalized services, and predictable costs; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lathrop hereby approves the creation of Capital Improvement Project (CIP) GG 21-11 – Create the Lathrop Police Department, Implement the transition of law enforcement services from the County to the City and authorize the following budget amendment of $6.5 million:

Increase Transfer Out		
1010-9900-990-9010		$3,250,000
1060-9900-990-9010		$3,250,000
Increase Transfer In		
3010-9900-393-0000	GG21-11	$6,500,000
Increase Expenditures		
3010-8000-420-0100	GG21-11	$6,500,000
Decrease Reserve		
1010-202-1400 – Police Start Up		$ 400,000
1010-251-0500 – Public Safety Reserve		$ 900,000
1010-253-0000 – General Fund Reserve		$1,950,000
1060-253-0000 - Public Safety Reserve		$ 205,500
1060-253-0000 – Measure C Reserve		$3,044,500

The foregoing resolution was passed and adopted this 22nd day of March, 2021, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSENT:

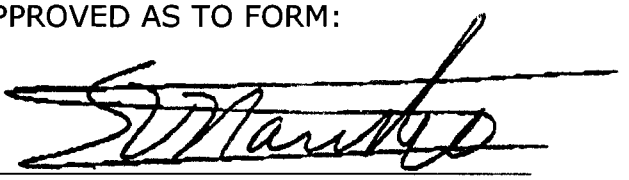
ABSTAIN:

Sonny Dhaliwal, Mayor

ATTEST:

Teresa Vargas, City Clerk

APPROVED AS TO FORM:



Salvador Navarrete, City Attorney