

# Proposed Mitigated Negative Declaration

**Project:** 2017 Storm Damage Rehabilitation Site 80: Deer Creek Levee Erosion Repair Project

**Lead Agency:** California Department of Water Resources (DWR)

**Availability of Documents:** The Initial Study for this Proposed Mitigated Negative Declaration is available for review at:

<https://ceqanet.opr.ca.gov/Search/Recent>

A printed copy is available to view during business hours (8:00 a.m. to 4:30 p.m.) at the DWR office located at 3310 El Camino Ave., Sacramento, CA 95821.

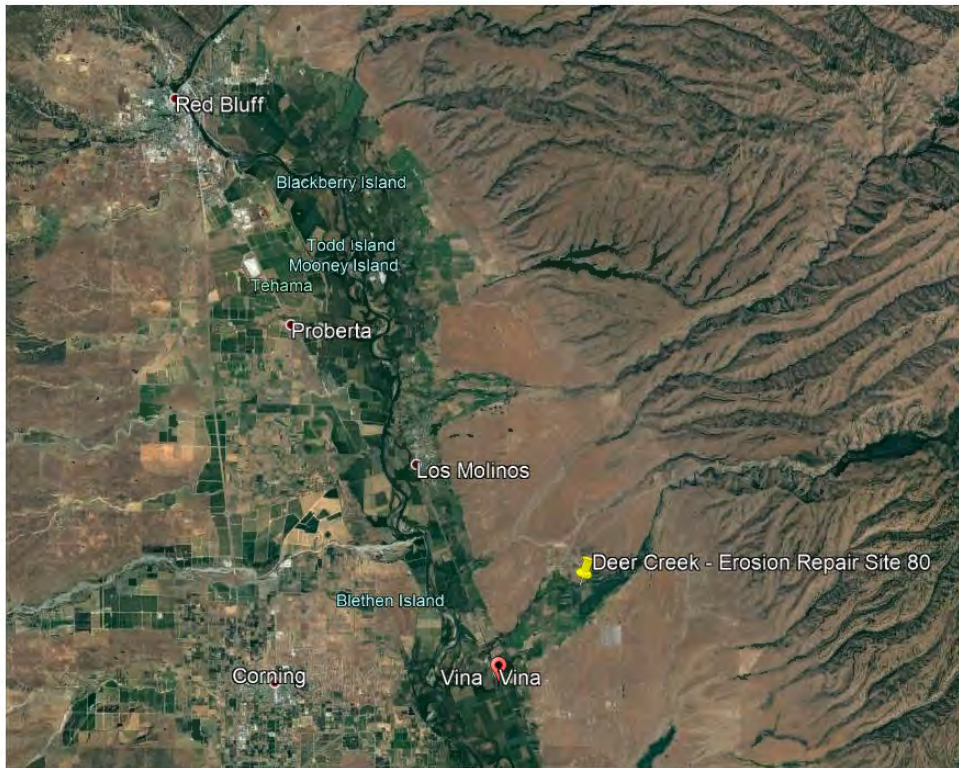
Questions or comments regarding this Proposed Mitigated Negative Declaration (MND) and Initial Study may be addressed to:

Kip Young  
California Department of Water Resources  
Division of Flood Management  
3310 El Camino Ave.  
Sacramento, CA 95821

Kip.Young@water.ca.gov  
(916) 574-2559

**Project Location:** The proposed project is located on the left bank of Deer Creek (Levee Mile 1.6, Unit 1), approximately 0.3 mile upstream from Leininger Road (Red Bridge) and 3.3 miles northeast of the town of Vina in Tehama County (**Figures 1 and 2**).

**Figure 1. Vicinity Map for the Site 80: Deer Creek Levee Erosion Repair Project**



**Figure 2. Site 80: Deer Creek Levee Erosion Repair Project Location**



**Project Description:** The proposed project involves repair of a 175-foot section of State Plan of Flood Control levee along Deer Creek. Implementation of the proposed project would include construction activities at the erosion repair site, staging of vehicles and equipment in a designated staging area, and storage of imported materials at a designated interim laydown area. Repair activities would include excavating the erosion area; shaping the levee slope; placing launch rock, soil-filled rock fill, and an agricultural soil layer; and installing willow pole cuttings, sedge plugs, grass plugs, and willow fascine bundles.

**Findings:** An Initial Study was prepared to assess the proposed project’s potential effects on the environment and the significance of those impacts. Based on the Initial Study, DWR has determined that the proposed project would not have a significant impact on the environment because mitigation measures would be implemented to reduce impacts to less-than-significant levels. This conclusion is supported by the following findings:

1. The proposed project would have no impact on:
  - Aesthetics.
  - Agricultural and forest resources.
  - Land use and planning.
  - Mineral resources.
  - Population and housing.
  - Public services.
  - Recreation.
  - Transportation.
  - Utilities and service systems.
  - Wildfire.
  
2. The proposed project would result in a less-than-significant impact on:
  - Air Quality.
  - Energy.
  - Geology and soils.
  - Greenhouse gas emissions.
  - Hazards and hazardous materials.
  - Hydrology and water quality.
  - Noise.
  
3. Mitigation measures have been adopted by DWR and Reclamation to reduce potentially significant impacts to less-than-significant levels on:
  - Biological resources.
  - Cultural resources.
  - Tribal cultural resources.

## Mitigation Measures

The following mitigation measures will be implemented by DWR to avoid, minimize, or mitigate environmental impacts resulting from implementation of the proposed project. Implementation of these mitigation measures would reduce the environmental impacts of the proposed project to a less-than-significant level or further reduce impacts determined to be less than significant. A Mitigation Monitoring and Reporting Program for these measures is included in Appendix A of the Initial Study.

### Air Quality

#### **Mitigation Measure AQ-1: Implement TCAPCD Construction Best Management Practices**

- Maintain all construction equipment in proper tune according to manufacturer's specifications.
- Maximize to the extent feasible, the use of diesel construction equipment meeting current California Air Resources Board certification standards for off-road heavy-duty diesel engines.
- If required by TCAPCD, all off-road heavy-duty diesel equipment greater than 50 horsepower used in execution of the project shall be registered with the Air Resources Board's Diesel Off-Road Online Reporting System (DOORS) and meet all applicable standards for replacement and/or retrofit.
- If required by TCAPCD, all portable equipment used in the execution of project construction, including generators and air compressors rated over 50 brake horsepower, shall be registered in the Portable Equipment Registration Program or permitted through the TCAPCD.
- Water shall be applied by means of truck(s), hoses and/or sprinklers as needed prior to any land clearing or earth movement to minimize dust emission.
- Haul vehicles transporting soil into or out of the property shall be covered to reduce track out.
- Water shall be applied to disturbed areas a minimum of 2 times per day or more as necessary to reduce fugitive dust emissions.

### Biological Resources

#### **Mitigation Measure BIO-1: Implement protection measures for the valley elderberry longhorn beetle.**

- Avoid work during the flights season of the valley elderberry longhorn beetle (March 15 to June 15).
- All suitable elderberry shrubs (i.e., shrubs with stem diameters of at least 1 inch when measured at ground level) would be avoided if not designated for removal or trimming.
- A 5-foot avoidance buffer would be established from the dripline of any elderberry shrubs. These avoidance buffers would be avoided by all personnel and repair activities. Shrubs would be flagged or temporarily fenced, as needed, with guidance from the Designated Biologist and designated as biologically sensitive areas. When feasible, fencing would be placed at the buffer.

**Mitigation Measure BIO-2: Implement Measures to Minimize Injury, Mortality, or Disruption to Fish Species.**

- Instream construction activities shall occur between July 15 and September 15 to avoid adverse impacts to Chinook salmon. Instream work could start sooner if CDFW determines that the adult spring-run Chinook salmon are no longer present based on environmental conditions and real time passage data. Instream work could be extended to October 14th if environmental conditions which would preclude juvenile steelhead and spring-run Chinook salmon emigration or adult steelhead and late-fall-run Chinook salmon immigration are expected to persist. Instream work outside of the July 15 to September 15 work window must be approved by CDFW and NMFS with details on how take will be avoided and / or minimized.
- Instream work shall only occur for up to 12 hours per day to allow a 12-hour window of time for fish to migrate through without noise disturbance.
- Prior to beginning instream work, the excavator bucket shall be operated to “tap” the surface of the water.
- Instream operation of the excavator bucket shall be conducted slowly and deliberately to allow fish time to seek refuge outside the work area.

**Mitigation Measure BIO-3: Compensate for permanent loss of riparian habitat.**

The permanent loss of riparian habitat shall be compensated for by restoring riparian habitat (and/or shaded riverine aquatic habitat) at an adjacent offsite or onsite location by planting native tree and shrub species according to a plan developed in coordination with the appropriate agencies, including CDFW, NMFS, and/or USFWS, or by purchasing riparian mitigation credits from an approved bank. Mitigation ratios shall be determined in coordination with CDFW and USACE during the permitting process.

**Mitigation Measure BIO-4: Implement Specific Protection Measures for the Western Pond Turtle.**

- If a western pond turtle is observed in the project area during construction activities, the Contractor shall temporarily halt construction until it is determined that the turtle will not be harmed or until the turtle has moved to a safe location outside of the construction limits.
- If construction is to occur during the nesting season (late June - July), a pre-construction survey for turtles and nest sites shall be conducted by a Designated Biologist. This survey shall be conducted within 660 feet of the project area no more than 2 days prior to the start of construction or restoration activities in suitable habitat.
- If a pond turtle nest is found, the Designated Biologist shall flag the site and determine whether construction activities can avoid affecting the nest. If the nest cannot be avoided, in consultation with CDFW, a no-disturbance buffer zone may be established around the nest until the young

have left the nest. If weather conditions prevent implementation of construction for more than 2 days after completion of turtle surveys, resurvey for this species shall be completed.

**Mitigation Measure BIO-5: Conduct pre-construction nesting bird surveys during the nesting season.**

- If construction is scheduled to occur during the bird nesting season (February 1 through September 15), pre-construction nesting bird surveys shall be conducted by a qualified biologist in all suitable nesting habitats within the project area.
- Nesting surveys shall be conducted in accordance with the recommended timing, methodology, and or/protocol for each bird species.
- Surveys shall also include a 0.25-mile radius outside of the project area for Swainson's hawk, western yellow-billed cuckoo, and bald eagle, and a 500-foot radius outside of the project area for other nesting birds.
- Surveys shall be conducted not more than 5 days prior to the start of construction, or as prescribed by established survey protocols.

**Mitigation Measure BIO-6: Establish nest protection buffers for active bird nests.**

- If an active bird nest is located in the survey area, an appropriate nest protection buffer shall be established by a qualified biologist based on the species, type of construction activities, and line of sight to the work area. Under this measure, nesting birds and offspring would not be disturbed or killed, and nests and eggs would not be destroyed.
- Work shall be conducted no less than 500 feet from an active raptor nest and 100 feet from an active migratory bird nest, though buffer distances for all nesting birds may differ based on consultation with CDFW and USFWS.
- To prevent encroachment, the established buffer(s) shall be clearly marked by high-visibility material if it has been determined by the qualified biologist that high-visibility material would not attract predators to the nest site. No construction activities, including tree removal, shall occur within the buffer zone until the young have fledged or the nest is no longer active, as confirmed by the qualified biologist.

**Mitigation Measure BIO-7: Monitor active nests within nest protection buffer.**

- If project activities must occur within established buffer zones, a qualified biologist shall establish monitoring measures, including frequency and duration, based on species, individual behavior, and type of construction activities.
- If birds are showing signs of distress within the established buffer(s), work activities shall be modified, or the buffer(s) shall be expanded, to prevent birds from abandoning their nest.



- At any time, the biologist shall have the authority to halt work if there are any signs of distress or disturbance that may lead to nest abandonment. Work shall not resume until corrective measures have been taken or it is determined that continued activity would not adversely affect nest success.

**Mitigation Measure BIO-8: Conduct pre-construction surveys for western red bat and pallid bat.**

- A qualified biologist shall conduct pre-construction surveys of all trees proposed for removal for western red bat, pallid bat, and maternity roosts within 24 hours prior to the start of construction activities.
- If the tree removal lapses for more than 24 hours after the survey, an additional survey will be required.

**Mitigation Measure BIO-9: Implement protective measures during removal of trees with bat roosts.**

- All removal of trees with bat roosts shall be conducted between September 1 and October 30, which corresponds to a time period when bats would not be caring for non-volant young and have not yet entered torpor, or after October 30 to avoid impacts to hibernating bats (or earlier than October 30 if evening temperatures fall below 45 degrees Fahrenheit and/or more than a half inch of rainfall occurs within 24 hours).
- If a non-maternity roost is found in a tree that must be removed or trimmed between September 1 and October 30, a qualified biologist shall monitor tree removal/trimming. Tree removal/trimming shall occur over two consecutive days. On the first day in the afternoon, limbs and branches shall be removed using chainsaws only. Limbs with cavities, crevices, or deep bark fissures shall be avoided, and only branches or limbs without those features shall be removed. On the second day, the entire tree shall be removed. Prior to tree removal/trimming, each tree shall be shaken gently and several minutes shall pass before felling trees or limbs to allow bats time to arouse and leave the tree. The biologist shall search downed vegetation for dead or injured bat species and report any dead or injured special-status bat species to CDFW.
- If a maternity roost is identified, a no-disturbance buffer shall be established and maintained until a qualified biologist determines that the roost is no longer active.

**Mitigation Measure BIO-10: Compensate for impacts to waters of the United States.**

If impacts to waters of the United States cannot be feasibly avoided, DWR shall implement one of the following compensatory measures:

- Pay in-lieu fees for wetlands or waters of the United States permanent impacts authorized by the USACE through the in-lieu fee program of the Sacramento District of the USACE and administered by the National Fish and Wildlife Foundation, at a ratio determined in consultation with USACE. -or-

- Secure waters of the United States credits at a USACE-approved mitigation bank for permanent impacts at the repair site at a ratio determined in consultation with USACE.

## Cultural Resources

### **Mitigation Measure CUL-1: Protect Newly Discovered Archeological, Prehistoric, Historic, or Tribal Cultural Resources**

- Prior to the start of construction, DWR will provide an environmental tailgate training including an overview of the types of cultural resources, including tribal cultural resources, which could occur in the project area, a statement of confidentiality, and go over the steps that must occur if any potential cultural resources are identified in the project area.
- If any potential historical or archaeological materials are discovered during construction, work must be halted within 100 feet of the find until an archaeologist who meets United States Secretary of Interior's Professional Qualification Standards for Archaeology evaluates the find. If the discovered materials are potential tribal cultural resources, affiliated Native American tribes will be notified and provided an opportunity to participate in the evaluation of the find. Work may continue on other parts of the project while evaluation and, if necessary, mitigation takes place (CEQA Guidelines Section 15064.5 [f]). After the assessment is completed, the archaeologist shall submit a report to DWR describing the significance of the discovery with cultural resource management recommendations. If the find is determined by DWR to be an historical, unique archaeological, or tribal cultural resource, time allotment and funding sufficient to allow for implementation of avoidance measures, or appropriate mitigation, must be available.
- Should significant archaeological resources be found, the resources shall be treated in compliance with PRC Section 21083.2. If the project can be modified to accommodate avoidance, preservation of the site is the preferred alternative. Data recovery of the damaged portion of the site also shall be performed pursuant to PRC Section 21083.2(d).

### **Mitigation Measure CUL-2: If human remains are found, cease construction activities and implement appropriate procedures for the treatment of remains.**

If human remains are found, such remains are subject to the provisions of California Health and Safety Code Sections 7050.5–7055. If remains or potential human remains are found, all work in the vicinity of the find must stop immediately. DWR or their designated representative will immediately notify the Tehama County Coroner. If the coroner determines the remains to be Native American, the coroner will notify the NAHC and DWR will open consultation with the individual(s) identified by the NAHC as the most likely descendant as set forth in PRC Section 5097.98. Work can restart after the remains have been investigated and recommendations have been made for the appropriate treatment and disposition of the remains.



## Greenhouse Gas Emissions

- **GHG 1.** Evaluate project characteristics, including location, project work flow, site conditions, and equipment performance requirements, to determine whether specifications of the use of equipment with repowered engines, electric drive trains, or other high-efficiency technologies are appropriate and feasible for the project or specific elements of the project.
- **GHG 2.** Evaluate the feasibility and efficacy of performing on-site material hauling with trucks equipped with on-road engines.
- **GHG 3.** Ensure that all feasible avenues have been explored for providing an electrical service drop to the construction site for temporary construction power. When generators must be used, use alternative fuels, such as propane or solar, to power generators to the maximum extent feasible.
- **GHG 4.** Evaluate the feasibility and efficacy of producing concrete on-site and specify that batch plants be set up on-site or as close to the site as possible.
- **GHG 5.** Evaluate the performance requirements for concrete used on the project and specify concrete mix designs that minimize GHG emissions from cement production and curing while preserving all required performance characteristics.
- **GHG 6.** Limit deliveries of materials and equipment to the site to off-peak traffic congestion hours. Construction BMPs apply to all construction and maintenance projects that DWR completes or for which DWR issues contracts. All projects are expected to implement all construction BMPs unless a variance is granted by the Division of Engineering Chief, Division of Operation and Maintenance Chief, or Division of Flood Management Chief (as applicable) and the variance is approved by the DWR CEQA Climate 18 Change Committee. Variances will be granted when specific project conditions or characteristics make implementation of the BMP infeasible and where omitting the BMP will not be detrimental to the project's consistency with the GGERP.
- **GHG 7.** Minimize idling time by requiring that equipment be shut down after five minutes when not in use (as required by California Code of Regulations, Title 13, Section 2485, the State's airborne toxics control measure). Provide clear signage that posts this requirement for workers at the entrances to the site and provide a plan for the enforcement of this requirement.
- **GHG 8.** Maintain all construction equipment in proper working condition and perform all preventative maintenance. Required maintenance includes compliance with all manufacturer's recommendations, proper upkeep and replacement of filters and mufflers, and maintenance of all engine and emissions systems in proper operating condition. Maintenance schedules shall be detailed in an air quality control plan prior to commencement of construction.
- **GHG 9.** Implement a tire inflation program on the job site to ensure that equipment tires are correctly inflated. Check tire inflation when equipment arrives on-site and every two weeks for equipment that remains on-site. Check vehicles used for hauling materials off-site

weekly for correct tire inflation. Procedures for the tire inflation program shall be documented in an air quality management plan prior to commencement of construction.

- **GHG 10.** Develop a project-specific ride share program to encourage carpools, shuttle vans, transit passes, and/or secure bicycle parking for construction worker commutes.
- **GHG 11.** Reduce electricity use in temporary construction offices by using high-efficiency lighting and requiring that heating and cooling units be Energy Star compliant. Require that all contractors develop and implement procedures for turning off computers, lights, air conditioners, heaters, and other equipment each day at close of business.
- **GHG 12.** For deliveries to project sites where the haul distance exceeds 100 miles and a heavy-duty class 7 or class 8 semi-truck or 53-foot or longer box-type trailer is used for hauling, a SmartWay2 certified truck will be used to the maximum extent feasible.
- **GHG 13.** Minimize the amount of cement in concrete by specifying higher levels of cementitious material alternatives, larger aggregate, longer final set times, or lower maximum strength, where appropriate.
- **GHG 14.** Develop a project-specific construction debris recycling and diversion program to achieve a documented 50-percent diversion of construction waste.
- **GHG 15.** Evaluate the feasibility of restricting all material hauling on public roadways to off-peak traffic congestion hours. During construction scheduling and execution, minimize, to the extent possible, uses of public roadways that would increase traffic congestion.

### Tribal Cultural Resources

Refer to the “Cultural Resources” mitigation measures section.

**MANDATORY FINDINGS OF SIGNIFICANCE**

- No substantial evidence exists that the proposed project would have a negative or adverse effect on the environment.
- The project would not substantially degrade the quality of the environment, significantly reduce the habitat for fish and wildlife species, result in fish or wildlife populations below a self- sustaining level, reduce the number or restrict the range of a special-status species, or eliminate important examples of California history or prehistory.
- The project would not have environmental effects that would cause substantial direct or indirect adverse effects on humans.
- The project would not have environmental effects that are individually limited but cumulatively considerable.

As the DWR decision-making body for this project, I have reviewed and considered the information contained in the Final Mitigated Negative Declaration, which includes the Initial Study, Proposed Mitigated Negative Declaration, and comments received during the public review process, prior to approval of the project.

In accordance with Section 21082.1 of the California Environmental Quality Act (CEQA), I find that DWR has independently reviewed and analyzed the Initial Study and Proposed Mitigated Negative Declaration for the proposed project and that the Initial Study and Proposed Mitigated Negative Declaration reflect DWR’s independent judgment and analysis. I find that although the proposed project could have a significant effect on the environment, there would not be a significant effect in this case because revisions to the project have been made by DWR, as described in the Proposed Mitigated Negative Declaration.

Therefore, on the basis of the whole record before DWR, I find that there is no substantial evidence that the project will have a significant effect on the environment. I therefore adopt this Mitigated Negative Declaration pursuant to CEQA Guidelines Section 15074.

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 Scott Deal  
 Acting Chief, Flood Maintenance Office  
 California Department of Water Resources

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 Date