



Newman Community Conservation Area Master Plan
Initial Study and Proposed Mitigated Negative Declaration
March 2021

APPENDIX G: Proposed Mitigated Negative Declaration



Cover photograph: courtesy of Vollmar Natural Lands Consulting

California Environmental Quality Act (CEQA)
Proposed Mitigated Negative Declaration



Project Title and Contact Information

Project title:	Newman Community Conservation Area Master Plan
Lead agency name and address:	City of Newman Public Works Department 938 Fresno Street Newman, CA 95360
Project proponent name and address:	<i>Same as above</i>
Contact person and phone number:	Kathryn Reyes Director of Public Works 209.862.4448

Project Location and Description

The attached Initial Study analyzes the environmental impacts of implementing four separate but complementary projects under the Newman Community Conservation Area (NCCA) Master Plan (City of Newman 2020). Because the purpose of the Master Plan is to define and describe the projects that will implement the Master Plan vision, analyzing the impacts of constructing, operating, and maintaining the NCCA projects analyzes the impacts of the Master Plan.

As shown in Figure 1, the NCCA site comprises two parcels immediately outside City limits: a 78-acre parcel located southeast of the intersection of Canal School Road and Inyo Avenue (APNs 054-050-019, 054-050-020) and a 24-acre parcel located to the east along Brazo Road (APN 054-05-010). The NCCA parcels are City-owned.

Figure 2 shows the approximate footprints of the four projects, which include the following.

- in the northwest portion of the 78-acre parcel, the Newman Environmental Wetland System (**NEWS project**), an approximately 21-acre constructed wetland complex that will treat stormwater and dry season runoff from the City and surrounding agricultural lands prior to discharge to the Newman Wasteway and, ultimately, the San Joaquin River
- in the central and east portions of the 78-acre parcel, extending to the central and south portions of the 24-acre parcel, an approximately 11-acre seasonal wetland, riparian, and grassland restoration project (**wetland project**) emphasizing natural sequestration of greenhouse gases (GHGs)
- in the southwest portion of the 78-acre parcel, an additional approximately 16-acre constructed wetland project that is being planned in collaboration with the Environmental Systems Graduate Group at the University of California, Merced (UC Merced) Department of Civil and Environmental

Engineering to treat water from the Miller Ditch, with a focus on removing agricultural pollutants
(Miller Ditch Treatment Wetland project) (MDTW, MDTW project)

- in the east and southeast portions of the 78-acre parcel, the **Newman Nature Park**, which is being planned with community input and may include a wide range of facilities such as a community gathering plaza, outdoor classroom areas, a nature-themed play area, and native plant, rainwise garden, and low-impact development demonstration areas, as well as an unpaved trail network and interpretive signage extending throughout the 78-acre parcel to enable appropriate public recreational access and, ultimately, tie all of the projects together

The attached Initial Study also analyzes the effects of extending City water service to the 78-acre parcel to serve limited uses at the NEWS project and Newman Nature Park. Potential alignments for water service extension are shown in Figure 3. For CEQA purposes because the extension of water service to each project would serve only that project and has no separate, independent utility, each water service extension is technically part of the project it would serve. However, the water service extension could involve a footprint outside the NCCA parcels, and would entail different construction activities. This Initial Study thus addresses the water service extension separately, to make sure all impacts are accounted for, even though construction of the water service extension would be coordinated with the NEWS and/or Nature Park projects, and the City would not proceed with the extension unless the corresponding NCCA projects also move forward.

As of the preparation of the Initial Study, the NEWS project and wetland projects are the farthest along in the planning process; the wetland project has been funded by a DFW Wetlands Restoration for Greenhouse Gas Reduction Program grant awarded in 2019 and the NEWS project will be funded by a State Water Resources Control Board (SWRCB) Proposition 1 Storm Water Grant Program Round 2 Implementation Projects grant awarded in early 2021. The NEWS project is currently at the 60% level of design and the wetland project is approaching the 65% design milestone. These two projects are analyzed to the project level.

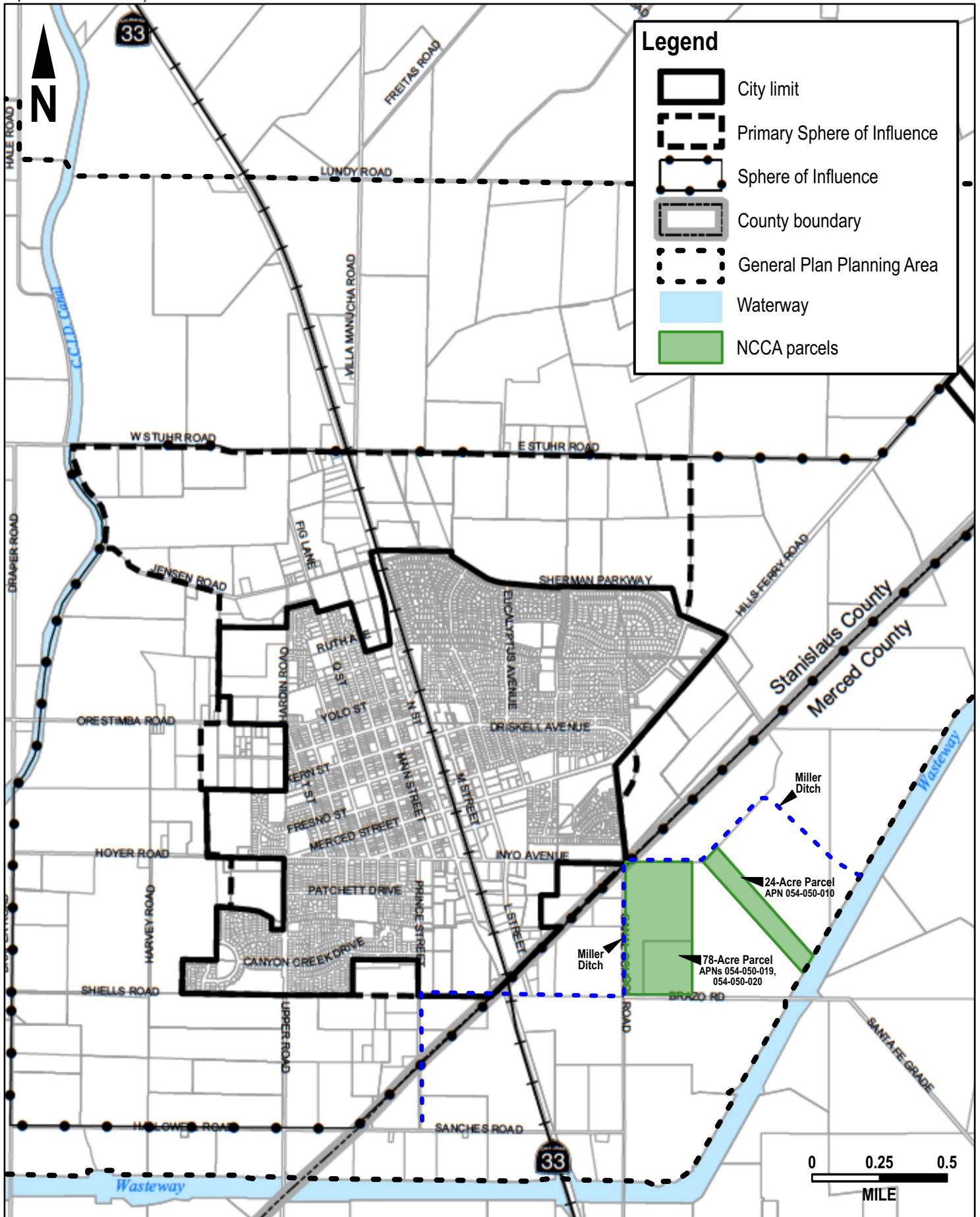
The City intends to apply for California Department of Parks and Recreation Proposition 68 Statewide Park Development and Community Revitalization Program Round Four funding for the Newman Nature Park in spring 2021. To the extent feasible with community dialogue still ongoing, the Newman Nature Park is also analyzed to the project level.

Project-level analysis is intended to enable prompt implementation, unless conditions, or the project themselves, change significantly. For instance, if elements not analyzed in this IS/MND are added to the Nature Park based on community input, additional CEQA review may be needed for the Nature Park project.

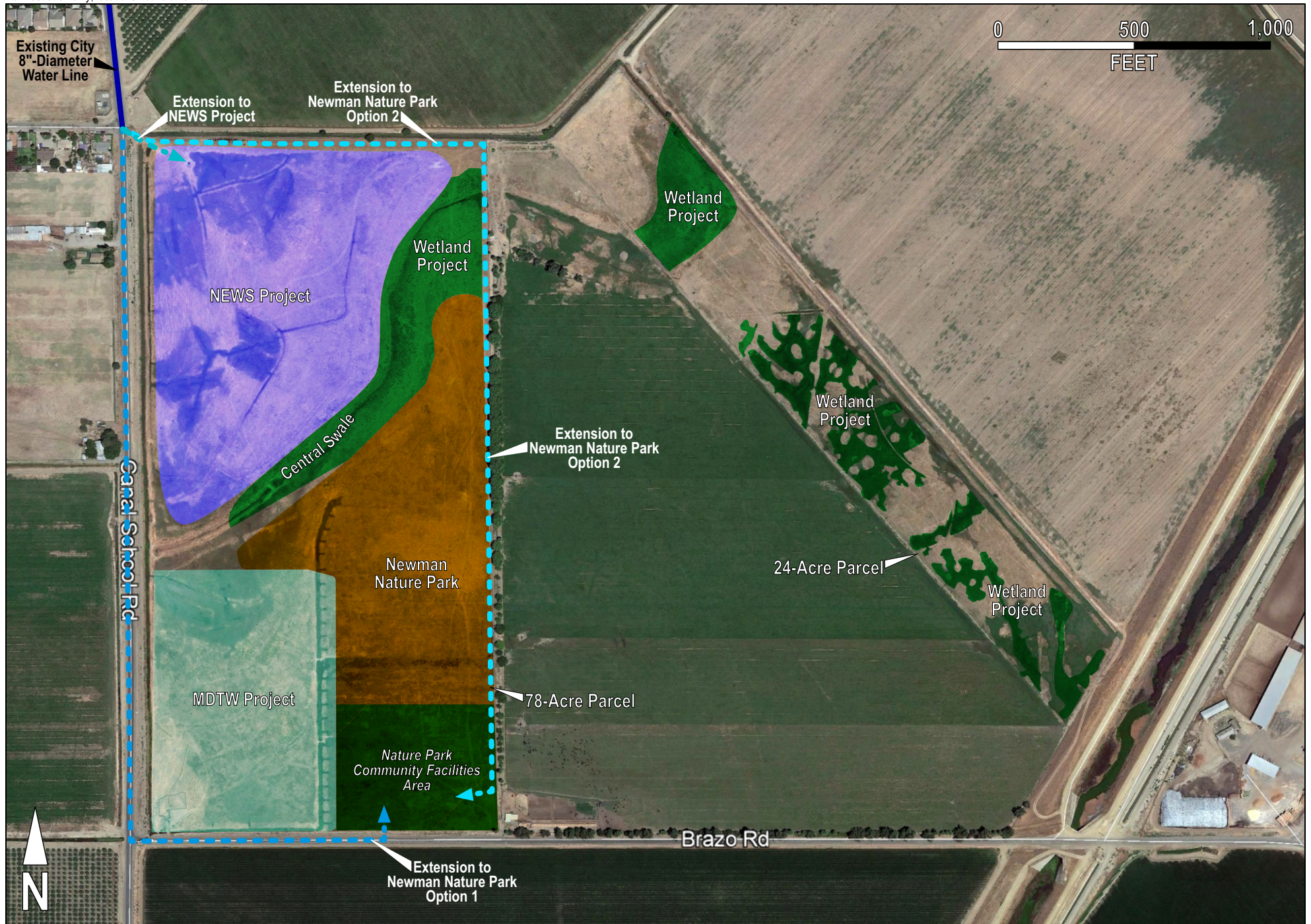
The MDTW project is the farthest out on the planning horizon; it has been developed in concept, and baseline technical studies are in progress but some details are not available at this time. The MDTW project is therefore analyzed to a more general, programmatic level, with as much information as possible provided. As planning proceeds and more detail on the MDTW project becomes available, the City may also need to conduct a second round of project-level CEQA review for the MDTW project.

Avoidance & Minimization Measures:

The City has committed to a suite of Avoidance and Minimization Measures (AMMs)—laid out in the NCCA Master Plan—that will be implemented to reduce the potential for adverse effects on sensitive habitats, water bodies, and the special-status plants and wildlife that may be present on the NCCA parcels. The AMMs will apply to initial construction of the NCCA projects and will be incorporated into the construction documents for each of the NCCA projects to ensure that requirements and limitations are clear and binding for contractor staff.







The AMMs will also apply to the installation of the water service extension to serve the NEWS project and Newman Nature Park.

Additionally, the AMMs will continue to be in effect for future maintenance or repair activities that have the potential to disturb habitat or otherwise affect special-status species. As individual operations and maintenance (O&M) plans are developed for the each of the NCCA projects, they will incorporate the AMMs, with additional detail as appropriate to facilitate straightforward and effective implementation on a project-specific basis. New AMMs may also need to be developed as the details of project O&M are further developed.

It should be noted that the AMMs are intended to dovetail with the requirements of resource agency permits authorizing the NCCA projects. In particular, in the years immediately following completion of each project, permit terms and conditions may require more frequent and intensive monitoring of restored and created habitat. In that case, the permit terms and conditions for each project will temporarily supersede the NCCA-wide AMMs within that project's footprint; elsewhere at the NCCA, the AMMs will continue to apply in their most current form.

AMM-1. Routine Reassessment & AMM Updates

At the completion of each NCCA project, GIS-based habitat mapping for the Plan Area parcels will be updated to document changes in habitat distribution as a result of the project.

Over the long term, the Plan Area parcels will be reevaluated for habitat conditions and potential special-status species use every other year. Reevaluation will also include updating maps delineating populations of rare plant species (i.e., plants assigned a California Rare Plant Rank by the California Native Plant Society and plants state- or federally listed as Threatened or Endangered). The evaluation will be conducted by a qualified biologist/ecologist who has experience with wetland and upland habitats in the west-central San Joaquin Valley, will cover both Plan Area parcels in their entirety, and will include, at a minimum, the following activities.

- Assessment of habitat distribution to determine whether the most recent habitat and rare plant mapping is still accurately representative of conditions on the Plan Area parcels
- California Rapid Assessment Method (CRAM) assessment of wetland health and performance

Results will be documented in an NCCA Habitat Assessment Report for City records. The Habitat Assessment Report will also identify the date of the next routine re-survey, enabling survey frequency to be adjusted (increased or decreased) if appropriate based on the rate and nature of change in conditions on the Plan Area parcels. In addition, depending on the extent and nature of changes in Plan Area conditions and the City's planned activities during the next few years, the Survey Report may recommend more detailed reassessment, potentially including re-mapping of habitat, updated delineation of state and federally jurisdictional habitat (wetlands and waters of the United States and State of California), and/or focused surveys for special-status plant and/or wildlife species.

In addition to documenting current Plan Area Conditions, the Habitat Assessment Report will include an evaluation of the AMMs in place at the time of the reassessment, and will identify any needed changes to the AMMs, potentially including modification or discontinuation of existing AMMs and/or establishment of new AMMs. Changes to AMMs will only be instituted in the interests of better preserving and protecting habitat values on the Plan Area parcels, in balance with appropriate O&M and recreational/educational access. If adverse changes in habitat conditions or the status of rare plant populations are identified, the Habitat Assessment Report will also include recommendations for corrective action(s).

The City will maintain Habitat Assessment Reports and other relevant documentation such as habitat and jurisdictional delineation mapping and special-status species sighting reports (see AMM-6) on file for ongoing reference in managing the NCCA. If corrective actions are identified as necessary, the City will be responsible for ensuring that they are promptly implemented by qualified personnel.

AMM-2. Appropriate Long-Term Public Access

All public access, including access roadways opened for public trail use, will incorporate appropriate measures to prevent accidental incursions—and discourage intentional access—into sensitive habitat. Measures will be designed for aesthetic consistency with their natural surroundings, such that they foster a positive and welcoming user experience while protecting sensitive resources to the extent possible. Measures may include carefully selected trail routing as well as split-rail or other suitable fencing, strategically located plantings, and the use of elevated boardwalks. Signage will also be used to inform the public of sensitive resources and foster appreciation for the need to protect them. All signage will be bilingual in English and Spanish to reflect the City's diverse population. Wildlife-proof trash and recycling receptacles will be provided at regular intervals along all trails to discourage littering.

AMM-3. Worker Awareness Training

All construction personnel will be required to attend environmental awareness training before beginning work. All O&M staff and any future interns, student employees, and volunteers will also receive environmental awareness training as part of their routine City training. Training will be provided bilingually in English and Spanish if appropriate.

Training will be delivered by a qualified biologist/ecologist and will provide information on the sensitive habitats within the Plan Area (based on the most recent surveys of the Plan Area per AMM-1), the special-status species that are known or potentially present, and measures required to protect water quality and sensitive habitats under AMM-4.

For each special-status species, training will include information on listing status, habitat preferences, distinguishing physical characteristics, causes of decline, and measures required to protect the species within the Plan Area. Training will include a hard copy handout that summarizes information presented in the training and includes photographs of habitat resources and species to facilitate identification in the field by construction and O&M personnel.

AMM-4. Wetland & Water Quality Protection

Best management practices will be implemented for all ground-disturbing activities to prevent siltation and contaminated runoff to wetlands and water bodies within and adjacent to the Plan Area. During construction, this may take the form of a SWPPP prepared and implemented by appropriately qualified/certified personnel. For O&M activities that involve ground disturbance, similar measures will be implemented by City staff. BMPs will also be implemented for all O&M activities that require handling of fuels, lubricants, paints, solvents, and other substances with the potential to degrade water quality.

BMPs will include, but will not necessarily be limited to, the following.

- Before work begins, a qualified biologist/ecologist will delineate sensitive areas to be avoided, using pin flags, temporary construction fencing, or another appropriate low-impact medium. No entry (personnel, equipment, or materials) will be permitted into delineated avoidance areas
- If excavation or ground disturbance is necessary, runoff control measures such as straw wattles, filter rolls, filter fences, or silt fences will be installed to contain disturbed soil materials. Runoff control will be in place prior to groundbreaking. If straw wattles are used, they will consist of certified sterile, weed-free rice straw or similar, suitable for use in sensitive habitat. If filter fences or mesh are used, they will consist of materials, and employ a design, approved by DFW and USFWS as safe for amphibians and reptiles
- If ground disturbance occurs in a vegetated area, the disturbed area will be reseeded immediately following the completion of repairs, using a certified weed-free native species seed mix appropriate to the location and approved by a qualified biologist/ecologist
- Excavated materials will be stockpiled away from sensitive habitat, in areas that are relatively level, and relatively free of vegetation. Stockpiles will be located as far as reasonably feasible from the limits of sensitive habitat, and runoff control measures as described above will be used to prevent delivery of sediment to wetlands and ditches. If wattles are used, they will consist of certified sterile, weed-free materials, as identified above. Any excavated materials not reused on site will be promptly removed to appropriate permanent disposal locations following the completion of work
- All diesel- and gasoline-powered construction equipment and tools, including generator units, will be inspected for leaks and damage prior to mobilization
- Fueling, lubrication, and maintenance of vehicles and equipment will be conducted as far as reasonably feasible from wetlands and waterbodies, and will take place offsite if possible. Equipment staging will also be located as far as reasonably feasible from wetlands and water bodies. If onsite fueling, maintenance, or repairs are required, containment measures such as drip pans will be required
- To the maximum extent possible, materials staging will also be restricted to paved, surfaced, or upland areas away from wetlands and watercourses

- During all work, appropriate types and quantities of materials will be maintained onsite to contain any spills or releases of materials and prevent them from entering sensitive habitat and jurisdictional waters
- In the event of a spill, appropriate spill response procedures will be initiated as soon as the incident is discovered. If contractor staff are involved, the contractor will be required to notify City staff as soon as feasible, and in no case more than 24 hours after the occurrence; a designated City contact will be specified in the project construction documents for this purpose. If there is any potential for the spill to enter jurisdictional waters, the City will notify the RWQCB
- Food waste will be appropriately contained and disposed, and trash generated during construction and O&M activities will be promptly and properly removed from the site.

AMM-5. Special-Status Plant Protection

Before any work begins at the NCCA site, existing occurrences of rare plant taxa (as defined in AMM-1) will be delineated on GIS-based maps for future reference, based on the results of protocol-level peak blooming period surveys.¹ Mapping will be regularly updated as part of the routine re-surveys required under AMM-1.

Work will be planned to avoid delineated rare plant occurrences to the extent feasible. Prior to the start of construction and O&M work in the vicinity of delineated occurrences of rare plants, a qualified biologist/ecologist will define the current extent of the occurrence in the field using pin flags, temporary construction fencing, or another appropriate low-impact medium. The delineated avoidance area will include a setback buffer appropriate to the species involved and the nature of the work planned. No entry, staging, or other activity within delineated avoidance areas will be permitted.

If an occurrence of rare plants cannot be entirely avoided, the following additional measures will apply.

- (1) Plants that can be avoided will be demarcated by an exclusion area as described above
- (2) If possible, work will be scheduled for timeframes when the special-status taxa occurring in the work area are senescent and/or after seed has set
- (3) If an individual or group of individuals must be removed, one of two options may be employed, followed by monitoring, and, if needed, further corrective action to ensure that over the long term no net loss of the species occurs
 - i. Seeds from the affected species may be collected from existing onsite populations or from another population within the Bennett Valley – San Joaquin River watershed and distributed in the work area following completion of work, or, if the work area cannot be reseeded, in another appropriate location within the Plan Area. Appropriate locations will be

¹ Initial mapping was completed in 2020.

	<p>identified based on currently prevailing soil characteristics, site hydrology, and overall habitat conditions at the time of the restoration</p> <p>ii. A nursery with experience growing special-status plants of the western San Joaquin Valley region may be contracted to grow seedlings of the species from locally native seeds (collected from the work area or from another population in the Bennett Valley – San Joaquin River watershed). Seedlings may be planted in the work area following completion of work, or, if this is not possible, may be planted in another appropriate location within the Plan Area. As identified in (i) above, appropriate locations will be identified based on currently prevailing soil characteristics, site hydrology, and overall habitat conditions at the time of the restoration</p> <p>Note that seeds derived from plants in the Bennett Valley – San Joaquin River watershed may be available from local nurseries, and local nurseries may also be able to propagate seeds from adults grown from locally native collected seeds. In this case, seeds do not need to be collected from the work area.</p> <p>Prior to impacts and reseedling or replanting, a qualified biologist/ecologist will develop a monitoring and corrective action plan for the revegetated area. The plan will include at least the following components.</p> <ul style="list-style-type: none"> • Interim and final success criteria for the revegetated area. The goal will be to match or exceed pre-disturbance population levels in the Plan Area over the long term. Due to normal variations in population from year to year, average population data for annual taxa can be calculated from several years of data collected • Procedures for annual monitoring for a minimum of 3 years or until final success criteria are met • Low-disturbance methods for as-needed invasive species control within the replanted area, suitable to site conditions and the rare plant species involved • Corrective actions (additional seeding or planting) in the event interim success criteria are not met <p>The City will be responsible for ensuring that the monitoring plan is implemented by qualified personnel, and that any corrective action identified as necessary is properly carried out.</p> <p><u>AMM-6. Special-Status Wildlife Protection (General)</u></p> <p>In the event of a known or potential sighting of special-status wildlife in or near any construction or O&M work area, the following requirements will apply.</p> <ul style="list-style-type: none"> • Personnel will avoid the animal and will immediately notify designated City staff and the City's on-call biologist, who will advise them on how to proceed; if warranted (depending on the species involved), the biologist will consult with resource (DFW and/or USFWS) staff for guidance • The biologist will respond onsite to relocate the animal or assist in implementing other protective measures, guided by agency input
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- If the sighting is confirmed by the biologist, the species and location will be reported to DFW for inclusion in the California Natural Diversity Database (CNDDDB). The biologist will be responsible for making the report

The biologist will also provide a brief memorandum documenting the sighting and any follow-up actions, including CNDDDB documentation, for City records.

AMM-7. Western Spadefoot Protection

To the extent feasible, construction and O&M activities will be conducted during the dry season (May – October), or will avoid entry into and disturbance of ponded features.

If work within or in proximity to ponded features occurs during the rainy season, a qualified biologist will delineate areas to be avoided to prevent impacts on breeding special-status amphibians, using pin flags, temporary construction fencing, or another appropriate low-impact medium. No entry (personnel, equipment, or materials) will be permitted into delineated avoidance areas.

If work would impact areas with burrows, a qualified biologist will evaluate the burrows to determine whether they are suitable for use by western spadefoot, and will scope any suitable burrows. If any western spadefoot individuals are found within burrows to be impacted, they will be safely excavated from the burrow by hand or small excavator, either by the biologist or under biologist oversight, and will be relocated to a suitable burrow location outside the disturbance area and far enough away that they would not be expected to return.

AMM-8. Giant Garter Snake Protection

To the extent feasible, all construction and O&M activities will avoid impacting or working within 200 feet of the drainage ditches in the Study Area. Once the NEWS and MDTW projects become operational, the same precautions will apply to created water bodies. Appropriate silt fencing, flagging, and/or other measures will be employed to protect the drainage ditches and other aquatic habitat from direct and indirect impacts, as described in AMM-4.

If work within 200 feet of suitable habitat for giant garter snake is necessary (e.g., for NEWS and MDTW project O&M), the following additional measures will be required.

- (1) If possible, work within 200 feet of suitable habitat will be conducted between May 1 and October 1, when the species is more active and mortality is less likely
- (2) At all times of year, prior to work within 200 feet of suitable habitat, before work begins, a qualified biologist will conduct a pre-construction survey of the work area (including access and staging) for giant garter snake. If the species is present, the biologist will notify the City and work will be delayed until the biologist can consult USFWS regarding next steps. Work will not proceed until USFWS has recommended appropriate next steps and these have been implemented. Once work has begun, if activity is suspended for 2 weeks or more, the survey—and, if needed, follow-up—will be repeated

AMM-9. Northwestern Pond Turtle Protection

Prior to the start of construction or O&M activities, a qualified biologist will conduct a pedestrian preconstruction survey for northwestern pond turtle. The survey will be conducted no more than 24 hours prior to start of work, and will include walking the work area limits and interior and investigating all areas that could be used by the species. If northwestern pond turtle individuals are found, the biologist will relocate them to suitable habitat outside the disturbance area and far enough away that they would not be expected to return.

AMM-10. Nesting Bird Protection

To the extent feasible, construction will be scheduled outside the February 1 – September 15 nesting season. O&M activities reasonably expected to generate substantial sustained disturbance above Plan Area baseline levels and O&M activities that would involve ground disturbance or vegetation removal or trimming will also be scheduled outside the nesting period if possible.

If the types of activities identified above would commence during the nesting season, a qualified biologist will conduct a preconstruction survey for nesting birds. The survey will be conducted within 2 weeks of the start of work, and will cover the entire work footprint, including access and staging, plus a 500-foot-wide buffer. If active nests are found within the survey area, a no-disturbance zone will be established around the nest for the duration of the nesting season, or until the biologist determines that the young have fledged and left the nest, or that the nest has been abandoned. No entry into the no-disturbance zone will be permitted. The no-disturbance zone will be delineated in the field by or under the supervision of the biologist, using temporary construction fencing or another suitable low-impact medium. The width of the no-disturbance zone will be determined by the biologist, based on

- the location of the nest and the amount of vegetative and other screening between the nest and areas where work will take place
- noise and human disturbance levels at the site at the time of the survey and the noise and disturbance expected during the work
- the sensitivity of the species involved and behaviors of the nesting birds, and, if appropriate,
- other site- or species-specific factors

If special-status species are involved, the biologist will consult with the appropriate resource agency(ies) (DFW and/or USFWS) in determining the width of the no-disturbance zone.

If work during the nesting season is suspended for more than 1 week and then recommences, an additional survey will be conducted before work is reinitiated, and the same no-disturbance zone requirements will apply in the event active nests are found.

AMM-11. Western Burrowing Owl Protection

If construction will take place during the western burrowing owl breeding season (February 1 – August 31), protocol-level preconstruction surveys will be conducted for this species. O&M activities reasonably expected to generate substantial sustained disturbance above Plan

	<p>Area baseline levels and O&M activities that would involve ground disturbance will also be subject to this requirement.</p> <p>Surveys will be conducted by a qualified biologist and will follow the methodology described in DFW's current Staff Report on Burrowing Owl Mitigation (California Department of Fish and Game 2012, or future reports that supersede the 2012 version). Four surveys will be conducted within 2 hours of sunrise or sunset, with the final survey occurring 24 hours prior to the start of construction activities. If active nest burrows are found, the no-disturbance zone requirements described in AMM-10 will apply. If work during the burrowing owl nesting season is suspended for more than 1 week and then recommences, an additional survey will be conducted before work is reinitiated, and the same no-disturbance zone requirements will apply in the event active nests are found.</p>
Mitigation Measures:	<p>Based on analysis in the attached Initial Study, the NCCA projects will incorporate the following mitigation measures to avoid, reduce, or compensate for potentially significant environmental impacts.</p> <p>Aesthetics</p> <p><u>Mitigation Measure AES-1. Construction Site Housekeeping and Visual Screening</u></p> <p>In order to reduce adverse effects related to vegetation removal, earthwork, civil construction, construction staging, and other project-related activities, all NCCA project construction documents will require "good construction site housekeeping" measures such that visual disruption is minimized and the appearance of the active work site is as orderly as possible. At a minimum, this will include the following requirements.</p> <ul style="list-style-type: none"> • Work and staging areas will be maintained in a clean, orderly condition at all times • When not in use, equipment and materials will be stored in construction staging areas • To the extent feasible, staging areas will be located away from public view; visual/aesthetic factors will be considered in locating staging areas • Staging areas will be visually screened, using 8-foot-high chainlink fencing covered with a fabric or other non-reflective material of a neutral color • Debris such as excavation spoils and vegetation slash not slated for onsite reuse will be removed promptly at regular intervals and properly disposed of <p><u>Mitigation Measure AES-2. Visual Disturbance Coordinator</u></p> <p>During construction of each of the NCCA projects, informational signage posted at the work site will include the name and contact information for a City staff person to serve as the designated Visual Disturbance Coordinator. The Visual Disturbance Coordinator will be available during regular business hours to monitor concerns and will be responsible for responding to public complaints regarding construction visual disturbance. In the event a visual disturbance complaint is received, they will be responsible for determining the cause of the complaint and ensuring that reasonable measures are implemented to correct the problem.</p>

Mitigation Measure AES-3. Use of Non-Glare Finishes

In order to minimize glare generated by new built elements at the NCCA site, all NCCA project construction documents will stipulate the use of low-sheen, non-glare, and non-reflective surface materials. Unpainted metal surfaces will not be permitted unless they have been treated for a low-glare weathered or rusted appearance, and gloss paints will not be used. Wall surfaces and hardscape will be matte and roughened; smooth trowelled surfaces will not be permitted.

The operations and maintenance plan for each of the NCCA projects will also be written to require periodic assessments of the appearance of hard surfaces, with touch-up or replacement of the finish when necessary. The City will be responsible for long-term assessment and maintenance to ensure that the new built elements at the NCCA do not generate excess glare.

Mitigation Measure AES-4. Standards for Nighttime Security Lighting

To minimize effects of nighttime security lighting on the community and on wildlife, all NCCA project construction documents will require that any exterior lighting installed at the NCCA meet the following standards.

- Use of nighttime lighting limited to the minimum needed to provide for public and facility safety
- Lighting equipped with photosensor or timer switches, such that lighting is on only when needed (dark hours)
- Full cut-off, shielded luminaires to reduce light spill
- Downward-directing lighting only; no use of uplights
- Lighting sources restricted to those that provide good color rendering such as light-emitting diodes (LEDs) and metal halide lamps; no use of high- or low- pressure sodium lamps or mercury vapor lamps

Biological Resources

Mitigation Measure BIO-1. Protection and Recovery of Parry's Rough Tarplant at NCCA Site

Design of the wetland project will be configured to avoid removal of existing Parry's tarplant populations to the extent feasible while still accomplishing the project's habitat objectives, based on the mapping developed during the 2020 protocol-level surveys, or the most current updated mapping.

Prior to construction of the NEWS and wetland projects, the City will retain a qualified biologist, botanist, or ecologist with experience in western San Joaquin Valley special-status plants to demarcate avoidance zones around the existing populations of Parry's tarplant that are planned to remain in place, using temporary construction fencing or another appropriate low-impact medium. The avoidance zone around each occurrence will include a 20-foot-wide buffer to reduce the potential for inadvertent and indirect impacts. Entry into Parry's rough

tarplant avoidance zones will be prohibited and all construction and staging activity will be excluded.

Additionally, prior to construction of the NEWS project, which is expected to remove occurrences of Parry's rough tarplant, seed will be collected from existing onsite populations of the species and will be included in the seed mix used for the wetland project's native grassland restoration. This requirement will also apply if the wetland project would remove Parry's rough tarplant occurrences. Monitoring protocols and interim and final success criteria for recovery of Parry's rough tarplant in the wetland project native grassland area will be included in the Monitoring Plan developed for the wetland project and will thus be subject to DFW review and approval. Corrective actions in the event Parry's rough tarplant within the native grassland area fails to meet interim success criteria will also be stipulated in the Monitoring Plan, potentially including, but not necessarily restricted to, reseeding in place with seed from onsite sources, and reseeding with onsite seed in other portions of the NCCA site that offer suitable habitat and can be protected over the long term. If corrective action includes reseeding outside the wetland project footprint, the additional reseeded area will be added to the area protected under the wetland project grant contract with DFW and will be monitored and maintained under the wetland project Monitoring Plan.

The City will be responsible for ensuring proper implementation of avoidance, protection, and recovery measures for Parry's rough tarplant.

Mitigation Measure BIO-2. Long-Term Protection and Restoration of Coastal and Valley Freshwater Marsh and Other Sensitive Habitats

If areas of Coastal and Valley Freshwater Marsh or another sensitive habitat at the NCCA site are disturbed or damaged by human incursion or other causes, the City will contract with a qualified biologist or ecologist to develop and implement a restoration plan appropriate to the extent and nature of the damage. Restoration measures may include, but will not necessarily be limited to, trash and debris removal, reseeding, replanting from onsite or container stock, and if appropriate, localized recontouring. Exclusion fencing and/or hand watering may also be included, if the biologist/ecologist considers it appropriate to support vegetation reestablishment.

If the damage involves habitat recognized as a sensitive natural community by DFW, the restoration plan will be developed in consultation with DFW and will be required to meet with DFW approval. For all habitats, the restoration plan will be consistent with current best practices for restoration ecology, and will include provisions for follow-up monitoring, interim and final success criteria, and corrective action such as additional replanting to ensure that damage is successfully restored and habitat function and value are maintained over the long term. The City will be responsible for proper development and implementation of the restoration plan and any follow-up monitoring and corrective action(s) it requires.

Cultural Resources

Mitigation Measure CUL-1. Protection of Old Santa Fe Grade

The footprint of the wetland project will be developed to ensure that all physical impacts on the historic Santa Fe Grade are avoided. The project construction documents will define the extent of the Santa Fe Grade in the vicinity of the wetland project and will show the footprint

of the Grade as a “No Disturbance” exclusion area where earthwork and equipment staging will be prohibited. The City’s construction management staff will be responsible for enforcing this measure during construction. Similar avoidance will be required during O&M activities, and will be enforced by Public Works staff overseeing O&M at the NCCA site.

Mitigation Measure CUL-2. Retention of On-Call Archaeologist

Prior to construction of each of the NCCA projects, the City will retain a qualified professional archaeologist (City’s Archaeologist) who meets Secretary of the Interior standards and has experience in San Joaquin Valley archaeology on an on-call basis for the duration of all ground-disturbing activities. The City’s Archaeologist will be responsible for reviewing, identifying, and evaluating cultural resources (if any) exposed during construction, for determining whether they qualify as *historic resource(s)* and/or *unique archaeological resource(s)* under CEQA, and, if needed, recommending and implementing appropriate follow-up treatment.

Mitigation Measure CUL-3. Worker Awareness Training for Cultural Resources

Prior to groundbreaking for each of the NCCA projects, the City’s Archaeologist (defined in Mitigation Measure Cul-3) will develop and present in-person, hands-on worker awareness training for historical resources. Training will include information on the possibility of encountering resources during construction; the types of resources that could be seen and how to recognize them; and proper procedures in the event resources are encountered. All field management and supervisory personnel and construction workers involved with ground-disturbing activities will be required to take this training prior to beginning work on the project. Upon completion of the training, workers will be required to sign a form stating that they attended the training, understand, and will comply with the information presented. The same type of worker awareness training will be required for all City and contract staff engaged in O&M activities that would entail ground disturbance in areas not already disturbed by construction. It will be provided by the City’s Archaeologist, or another on-call specialist meeting the same qualifications. The City’s Public Works Department will be responsible for ensuring that training is provided for both construction and O&M staff.

Mitigation Measure CUL-4. Evaluation and Treatment of Unanticipated Archaeological Discoveries

If known or suspected cultural resources are discovered during construction or O&M, work in the immediate area of the find will cease and the contractor or O&M staff will be required to notify the City before the end of the work day. The find will be protected in place until the City’s Archaeologist (or another specialist meeting the same qualifications) and a trained and qualified Native American monitor who can prove genealogical relationship to at least one of the tribes of the western San Joaquin Valley region have evaluated it and identified appropriate follow-up measures, if any. If the City’s Archaeologist determines that the resource qualifies as a *historic resource* and/or *unique archaeological resource* under CEQA, they will notify the City and other appropriate parties and recommend follow-up measures to reduce impacts, in accordance with Section 15064.5 of the *CEQA Guidelines*. Depending on the nature of the find, follow-up measures may include avoidance, preservation in place, recordation, monitoring during ongoing work, additional archaeological testing, and data recovery, among other options. The City’s Archaeologist may recommend completion of a formal Archaeological Monitoring Plan (AMP) and/or Archaeological

Treatment Plan (ATP), potentially including data recovery, if significant archaeological deposits are exposed during ground-disturbing activities. The City will be responsible for proper implementation of the AMP and ATP. If an AMP or ATP is implemented for a project that requires federal permit authorization (for example, Clean Water Act Section 404 permitting), the City will consult with the federal lead agency and, if appropriate, other regulatory agencies, in developing and implementing the AMP and ATP.

If archaeological evaluation, monitoring, or treatment is required, the City's Archaeologist will prepare and file a Monitoring Closure Report with the City, documenting the nature of the find(s), evaluation methods, and outcomes.

Mitigation Measure CUL-5. Procedures for Discovery of Human Remains

The treatment of human remains and funerary objects discovered during ground-disturbing construction and O&M activity will comply with all applicable state laws. If known or potential human remains are encountered during activities at the NCCA site, work within 50 feet of the discovery and in any nearby areas reasonably suspected to overlie adjacent remains will cease, the find will be protected in place, and the contractor/O&M staff will be required to notify the City before the end of the work day. The City will promptly notify the Merced County Coroner, who will be responsible for determining whether the remains are Native American. If the Coroner determines that the remains are Native American and are not subject to Coroner authority, the Coroner will notify the Native American Heritage Commission, which is responsible for identifying and notifying descendant(s) of the deceased so they can make recommendations regarding the treatment of the remains. The City will be responsible for facilitating the disposition of remains recommended by the Most Likely Descendant(s). If no satisfactory agreement can be reached as to the disposition of the remains pursuant to state law, the City will respectfully reinter the human remains and items associated with the burial on City property in a location not subject to further subsurface disturbance. A final report detailing the find, follow-up activities, and disposition of remains will be prepared by the City's Archaeologist or other qualified staff, and will be submitted to the City Manager promptly following disposition of the remains. The report will be subject to review and approval by the City Manager.

Geology & Soils

Mitigation Measure GEO-1. Topsoil Protection

To minimize impacts on topsoil resources, construction documents for all NCCA projects will require the following measures for work in vegetated areas.

- The area of disturbance will be limited to the minimum needed to accomplish the necessary grading/recontouring
- Revegetation will reuse onsite topsoil to the extent feasible. In areas where topsoil is present, topsoil will be removed and sidecast separate from other excavation spoils, and will be assessed for reuse in habitat restoration/creation by a qualified biologist or ecologist with local native plant expertise. If the topsoil is determined to be suitable for onsite reuse in habitat restoration/creation, it will be maintained in a separate stockpile and will be replaced during revegetation. If site topsoil is determined to be unsuitable—for example, due to the presence of excessive

	<p>invasive species seed bank—clean imported topsoil will be used. If possible, import topsoil will be obtained from a local source or sources within the project watershed, with soil properties generally consistent with those of the NCCA site. Import topsoil will also be assessed and approved by the qualified biologist/ecologist prior to use on the site</p> <p>If operational or maintenance activities require topsoil disturbance or removal, the same measures will apply.</p> <p><u>Mitigation Measure GEO-2. Final Design Evaluation and PRMP Development</u></p> <p>For each of the NCCA projects, the City will retain qualified staff to review the 90% or 100% design submittal and supporting geotechnical report(s). As used here, <i>qualified staff</i> refers to an individual meeting the <i>qualified professional paleontologist</i> criteria defined by the Society of Vertebrate Paleontology (SVP) (Society of Vertebrate Paleontology Impact Mitigation Guidelines Revision Committee 2010).</p> <p>The purpose of the design review will be to determine the potential for ground disturbance to involve paleontologically sensitive geologic units (San Luis Ranch alluvium, Los Banos alluvium, and/or Tulare Formation), based on final design, anticipated depth of disturbance, and construction techniques. As such, the design review may include field reconnaissance, if warranted in the opinion of qualified staff. If there is reasonably foreseeable potential for any of these units to be affected by project-related ground disturbance, the City will require qualified staff (as defined above) to develop a Paleontological Resources Mitigation Plan (PRMP). The PRMP will be consistent with the SVP's <i>Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources</i> (SVP Impact Mitigation Guidelines Revision Committee 2010) and <i>Conditions of Receivership for Paleontologic Salvage Collections</i> (SVP Conformable Impact Mitigation Guidelines Committee 1996). As such, it will provide for at least the following.</p> <ul style="list-style-type: none"> • Implementation by qualified personnel, including a supervising paleontologist who meets the requirements for a <i>qualified professional paleontologist</i> as defined by the SVP and monitor(s) who satisfy the SVP's requirements for <i>paleontological resource monitors</i> (Society of Vertebrate Paleontology Impact Mitigation Guidelines Revision Committee 2010) • Pre-construction survey with salvage or protection in place, in any areas where there would be surface disturbance of the geologic units identified as highly sensitive for paleontological resources (San Luis Ranch alluvium, Los Banos alluvium, Tulare Formation) ("highly sensitive units") • Pre-construction and construction-period coordination procedures and communications protocols • Monitoring of ground-disturbing activities known to involve, or potentially involving, the highly sensitive units. In all areas subject to monitoring, monitoring will initially be conducted full-time for grading and excavation, but the PRMP may provide for monitoring frequency in any given location to be reduced once 50% of the ground-
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	<p>disturbing activity has been completed, based on the professional judgment of the supervising paleontologist</p> <ul style="list-style-type: none"> • Provisions for a “stop work, evaluate, and treat appropriately” response in the event of a paleontological discovery, with appropriate treatment identified by the supervising paleontologist (see Mitigation Measure GEO-3) based on the nature of the find and prevailing standards for paleontological resources protection • Sampling and data recovery procedures consistent with SVP protocols (Society of Vertebrate Paleontology Impact Mitigation Guidelines Revision Committee 2010, Society of Vertebrate Paleontology Conformable Impact Mitigation Guidelines Committee 1996) • A repository agreement providing for appropriate curation of any recovered materials, consistent with SVP requirements (Society of Vertebrate Paleontology Conformable Impact Mitigation Guidelines Committee 1996) • Procedures for the preparation, identification, and analysis of fossil specimens and data recovered, consistent with SVP Requirements (Society of Vertebrate Paleontology Conformable Impact Mitigation Guidelines Committee 1996) and any additional requirements of the designated repository institution • Reporting procedures consistent with SVP requirements (Society of Vertebrate Paleontology Impact Mitigation Guidelines Revision Committee 2010) <p><u>Mitigation Measure GEO-3. PRMP Implementation</u></p> <p>Prior to groundbreaking for any of the NCCA projects that are determined to warrant a PRMP (see Mitigation Measure GEO-2), the City will retain a supervising paleontologist meeting SVP standards for a <i>qualified professional paleontologist</i> (Society of Vertebrate Paleontology Impact Mitigation Guidelines Revision Committee 2010) to implement the requirements of the PRMP. This person may, but will not necessarily, be the same individual who prepared the PRMP. The City will be responsible for ensuring proper implementation of the PRMP.</p> <p><u>Mitigation Measure GEO-4. Worker Awareness Training for Paleontological Resources</u></p> <p>To support effective PRMP implementation and address the potential for unanticipated discoveries where a PRMP is not required, the City will retain qualified staff to present in-person, hands-on worker awareness training for paleontological resources to ensure that construction staff can recognize fossils in the field. Training will be delivered prior to groundbreaking for each of the NCCA projects. As used here, <i>qualified staff</i> refers to an individual who satisfies one or both of the following criteria.</p> <ul style="list-style-type: none"> • A qualified professional paleontologist as defined by the SVP (Society of Vertebrate Paleontology Impact Mitigation Guidelines Revision Committee 2010) who is experienced in delivering training to nonspecialists • A California-licensed professional geologist (PG) who has expertise in San Joaquin Valley stratigraphy and paleontology and is experienced in delivering training to nonspecialists
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Training will be concise and substantive. It will include information on the possibility of encountering fossils during construction; the types of fossils that may be seen and how to recognize them; and proper procedures in the event fossils are encountered. All field management and supervisory personnel and construction workers involved with ground-disturbing activities will be required to take this training prior to beginning work on the project. Upon completion of the training, workers will be required to sign a form stating that they attended the training, understand, and will comply with the information presented.

Mitigation Measure GEO-5. Paleontological Consultation for Ground-Disturbing O&M Activities

Prior to ground-disturbing O&M activities in areas not previously disturbed by construction, the City will retain a qualified professional paleontologist as defined by the Society of Vertebrate Paleontology (Society of Vertebrate Paleontology Impact Mitigation Guidelines Revision Committee 2010) to review the proposed O&M activities. The purpose of the review will be to determine the level of risk to paleontological resources as a result of the intended ground disturbance and provide advice regarding appropriate risk reduction measures. If the paleontologist considers it warranted, Mitigation Measures GEO-2, GEO-3, and GEO-4 will be implemented. Alternately, the professional paleontologist may identify a reduced approach consistent with the SVP's *Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources* (SVP Impact Mitigation Guidelines Revision Committee 2010) and *Conditions of Receivership for Paleontologic Salvage Collections* (SVP Conformable Impact Mitigation Guidelines Committee 1996). The City will be responsible for ensuring that the paleontologist's recommendations are properly implemented.

Hazards & Hazardous Materials

Mitigation Measure HAZ-1. Testing and Appropriate Disposal of Forebay Sediment

Prior to removal of sediment from the NEWS project and MDTW project forebays, the City will sample the sediment and test it for hazardous constituents. Sampling and testing will follow current applicable best practices consistent with the federal Environmental Protection Agency's Test Methods for Evaluating Solid Waste (SW-846), or current alternate approved under California law. If the sediment is found to qualify as hazardous per State of California standards, it will be handled and treated as a hazardous material, in compliance with all applicable federal, state, and local requirements. Reuse of sediment that qualifies as hazardous will not be permitted; it will be transported by an appropriately qualified and licensed hauler and will be disposed appropriately at either a Class II ("designated" wastes that are non-hazardous but may pose a risk to the environment) or Class I (hazardous wastes) landfill, depending on the nature and level of contamination.

Once sediment from each project's forebay has been tested in at least 3 normal water years, 3 wet years, and 3 dry years, testing may be discontinued if sediment has consistently been shown not to qualify as hazardous per State of California standards.

Mitigation Measure HAZ-2. Hazardous Materials Response

In the event known or suspected hazardous materials are encountered during construction or O&M, work in the vicinity of the find will be suspended until qualified staff (i.e., staff meeting the Environmental Professional qualifications in ASTM E1527-13) retained by the City can assess the nature of the find and stipulate appropriate follow-up and protective measures.

Work may proceed elsewhere on the site, assuming the discovery appears to be localized. If qualified staff consider it warranted, the City will conduct a Phase II hazardous materials investigation or appropriate equivalent procedure to determine the nature and extent of contamination, evaluate potential risks, and, if appropriate, stipulate additional precautions and/or response measures. Work in areas of known and potential contamination will not resume until the measures stipulated by qualified staff are implemented. If waste disposal is necessary, materials will be handled and disposed of by a licensed waste-disposal contractor and transported by a licensed hauler to an appropriately licensed and permitted disposal or recycling facility, in accordance with local, state, and federal requirements. Project contract documents for all NCCA projects will stipulate contractor responsibilities in accommodating and assisting with the implementation of these commitments, and these requirements will remain in force for all O&M activities at the NCCA.

See also Mitigation Measure C-1 (Pre- and Post-Construction Soil Testing for Mercury) in Cumulative Impacts below.

Noise

Mitigation Measure NOI-1. Reduced Construction Hours in Vicinity of Residences

To reduce the potential for disturbance, no construction activity at or adjacent to the NCCA site will be permitted within 1,500 feet of residences on any weekend days or before 8 AM or after 5 PM on weekdays.

Mitigation Measure NOI-2. Noise Disturbance Coordinator

During construction of each of the NCCA projects, informational signage posted at the work site will include the name and contact information for a City staff person to serve as the designated Noise Disturbance Coordinator. This person may, but will not necessarily, be the same person designated as the Visual Disturbance Coordinator under Mitigation Measure AES-2. The Noise Disturbance Coordinator will be available during regular business hours to monitor concerns and will be responsible for responding to public complaints regarding construction noise and vibration disturbance. In the event a noise/vibration disturbance complaint is received, they will be responsible for determining the cause of the complaint and ensuring that reasonable measures are implemented to correct the problem.

Mitigation Measure NOI-3. Limits on Use of Impact and Vibratory Equipment Near Residences

No construction equipment or activities reasonably anticipated to generate vibration levels in excess of 94 vibration decibels (VdB) or a peak particle velocity of 0.2 inches per second at a distance of 25 feet from the source will be permitted within 100 feet of existing residences. Prohibited equipment will include vibratory rollers.

Transportation

Mitigation Measure TR-1. NCCA Usage Monitoring

Prior to construction of the Newman Nature Park, the City will take the following actions to monitor NCCA usage

- At least monthly, the City will conduct one weekday and one weekend user poll at peak use hours to determine the number of visitors onsite, identify whether they are

	<p>local or from outside the area, and if they are from outside the City's Sphere of Influence, how far they travelled to visit the NCCA. Information on number of visitors per car will also be collected to calibrate understanding of visitors/car trips ratio, supporting more accurate projections of future VMT generation</p> <ul style="list-style-type: none"> Data will be maintained by the Public Works Department and will be summarized, reviewed, and evaluated annually to determine whether NCCA usage is generating in excess of 110 trips per day. Data analysis will include projections of coming-year usership and trip generation <p>When the Newman Nature Park is constructed, the City will ensure that the entrance to the parking area is equipped with a vehicle detection loop or similar technology such that vehicles entering the parking area are counted. The City will also continue to conduct user surveys as described above, and all data will continue to be maintained, and evaluated annually, by the Public Works Department, also as described above.</p> <p>If or when usership is found to exceed 110 trips per day or alternate screening criteria adopted by the City of Newman through a process consistent with <i>CEQA Guidelines</i> requirements and applicable recommendations of the Office of Planning and Research, or is projected to exceed this threshold in the coming year, the City will implement Mitigation Measure TR-2. Alternately, if at some time in the future a regional VMT reduction program meeting Office of Planning and Research (2018 or future-current) standards is developed and offers other opportunities to address VMT generation (such as in-lieu fees to support mitigation actions that can reasonably be expected to occur), the City may elect to participate in this program rather than implementing Mitigation Measure TR-2, assuming an appropriate offset for NCCA-generated VMT can be demonstrated.</p> <p>The Public Works Department will also monitor and track VMT associated with O&M at the NCCA site and will seek to minimize VMT where this is feasible without compromising the function, value, or community benefits of the NCCA facilities.</p> <p><u>Mitigation Measure TR-2. Reservations System and Usage Management</u></p> <p>The City will install an automatic gate on NCCA parking lot access and will develop and implement an online reservations system to limit site visitation. This may be used to maintain overall usership at a trip generation level that represents a Less than Significant transportation impact per current guidance from the Office of Planning and Research or other relevant entity, <i>and/or</i> to prioritize local over regional users such that projected VMT generation is maintained at a level below current applicable significance thresholds. If VMT generation is selected as the metric to guide usership management, it will be projected using current prevailing methods as of the time the relevant analysis is prepared. Management of regional usership may use any of several methods to control trip and/or VMT generation, potentially including but not necessarily limited to</p> <ul style="list-style-type: none"> prioritizing group visits that access the NCCA by bus or van, such as school field trips and senior excursions promoting and facilitating carpools and ridesharing for NCCA visitors prioritizing local usage over regional usage
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- other methods developed by the City based on usership surveys and community priorities and needs

Mitigation Measure TR-3. Overflow Parking Improvements on Inyo Avenue and Brazo Road

If the NEWS project is constructed before the Newman Nature Park, as part of the NEWS project the City will provide improvements to the north shoulder (only) of Inyo Avenue to provide for safe accommodation of overflow parking. The shoulder will be graded if necessary and will be graveled and/or paved for parking. Existing utilities will be protected in place. Improvements will initially be equal to 20 parking spaces (500 feet), but the City will continue to monitor usage at the NCCA per Mitigation Measure TR-1, and will extend the graveled and/or paved shoulder if necessary, taking into account the anticipated timing of Newman Nature Park construction and increased availability of onsite parking. *No Parking* signage meeting City standards will be installed along the south side of Inyo Avenue to prevent overflow parking from encroaching on residential frontages and access.

In conjunction with improvements to the shoulders of Inyo Avenue, the City will also coordinate with the County Public Works Department to install *No Parking* signs along both sides of Canal School Road adjacent to the NCCA, to prevent overflow parking from encroaching on travel and residential frontages and access along Canal School Road. Installation of signage will be the City's responsibility.

If the NEWS project is constructed after the Newman Nature Park, the City may reevaluate the need for overflow parking along Inyo Avenue based on usage monitoring conducted per Mitigation Measure TR-1. Improvements as described above will be provided if warranted.

As part of the Newman Nature Park project, the City will provide improvements to the shoulders of Brazo Road to provide for safe accommodation of overflow parking. Shoulders on both sides of the road will be graded if necessary, and graveled and/or paved for parking. The length of the improvements will initially be equal to 30 parking spaces (750 feet), but the City will continue to monitor usage at the NCCA per Mitigation Measure TR-1, and will expand the graveled and/or paved shoulder length as needed. If the Newman Nature Park is constructed before the NEWS project, *No Parking* signage along both sides of Canal School Road adjacent to the NCCA will be installed at the time the Nature Park is constructed.

All improvements along Inyo Avenue and Brazo Road will be the City's responsibility but Brazo Road improvements will be coordinated with the County Public Works Department and will meet County roadway standards as laid out in the current version of the *Merced County Department of Public Works Improvement Standards and Specifications*.

Cumulative Impacts

Mitigation Measure C-1. Pre- and Post-Construction Soil Testing for Mercury

Prior to construction of the NEWS, wetland, and MDTW projects, the City will conduct further testing to characterize mercury levels in soils involved in project earthwork. Samples will be collected from at least 3 locations within each proposed habitat type within each project footprint. Soil testing will also be conducted in the footprint of the Newman Nature Park, with samples collected from at least 3 locations within each area planned for earthwork and/or

future public use. At each location within each project, samples from surface, mid-depth, and maximum anticipated depths of excavation will be collected. Sample locations will be areally distributed to maximize coverage, and sample locations at the NEWS, wetland, and MDTW projects will be coordinated with RWQCB staff and subject to RWQCB approval. Sample collection will conform to Chapter 3 (*Inorganic Analytes*) of EPA's SW-846 Compendium. Testing will conform to EPA Method 7473.

Site soils found to exceed the 0.1 mg/kg total mercury (dry weight) threshold will be removed from the site and disposed of appropriately, consistent with all applicable state and federal protocols. Alternately, they may be separately stockpiled for onsite reuse in lower fill lifts that will not be exposed at the surface and will not be subject to surface water flow or ponding when the project is complete. If soils are stockpiled for reuse, stockpiles will be covered and soils will be watered during placement, to prevent the generation of fugitive dust with elevated mercury levels, and runoff control will be in place to prevent offsite transport. Appropriate personal protective equipment will be required for all construction-site personnel working with or potentially exposed to these soils, consistent with any applicable California state requirements.

At the NEWS, wetland, and MDTW projects, once construction is complete, and before new water flows are introduced to the project, at least one soil sample will be collected and analyzed from each habitat type/land use within the project footprint (including wetland habitat, uplands, and—if any—access roadways and parking area). At the Newman Nature Park, at least one sample will be collected within each public use area that has exposed soils (i.e., is not paved or surfaced); multiple samples will be collected from each trail, covering and characterizing the length of the trail. Sample locations at the NEWS, wetland, and MDTW projects will be coordinated with RWQCB staff and will be subject to RWQCB approval, and sampling and analysis protocols will be the same as those identified above. The purpose of this second round of analysis will be to verify that all surface-exposed soils and soils exposed to surface water flow or ponding are below the 0.1 mg/kg total mercury (dry weight) threshold. If this is confirmed, no further action with regard to soils will be required. If any soils are found to exceed the 0.1 mg/kg total mercury (dry weight) threshold, remedial action will be taken. Remedial action at the NEWS, wetland, and MDTW projects will be coordinated with RWQCB staff and a remedial action plan will be submitted to the RWQCB and must be approved by the RWQCB before action is taken. At all of the projects, remedial actions may include, but will not necessarily be limited to, the following: capping with clean imported fill verified to contain levels below the 0.1 mg/kg total mercury (dry weight) limit, removal, appropriate disposal, and replacement with clean imported fill verified to contain levels below the 0.1 mg/kg total mercury (dry weight) limit, or—where feasible without impeding the function of the project—capping with rock or permeable paving media.

At all four NCCA projects, unless preconstruction soil testing has shown that soils within the project footprint are consistently below the 0.1 mg/kg total mercury threshold throughout the site, future modifications requiring earthwork in areas not previously disturbed by construction will be subject to the same testing and remedial action requirements laid out for construction.

Mitigation Measure C-2. Aqueous Mercury Monitoring and Management

Following construction completion at the NEWS, wetland, and MDTW projects, the City will conduct testing for aqueous methylmercury levels in input, onsite, and effluent waters. Testing will be initiated once vegetation is established and each project is determined by the design team or other appropriately qualified personnel to be functioning at a mature level. Samples will be collected from the following locations.

- NEWS project: Miller Ditch input to project, at least one location within each wetland cell within project, micropool, discharge to Miller Ditch
- Wetland project: Miller Ditch input to project, at least one location within each wetland habitat type on 78-acre parcel, at least one location within each wetland habitat type on 24-acre parcel
- MDTW project: Miller Ditch input to project, at least one location in each wetland cell within project, discharge from project

Sample collection will follow EPA Method 1669 or updated EPA equivalent. Samples will be analyzed consistent with EPA Method 1631 or updated EPA equivalent. Sample locations will be coordinated with RWQCB staff and will be subject to RWQCB approval.

The goal of sampling and analysis will be to show that wetlands on the NCCA site are not increasing methyl mercury above input levels. Testing and analysis will be conducted each year for a minimum of 3 consecutive years. If the methylmercury level in any of the tested samples is found to substantially exceed the level in input waters to the project (as determined by the City in consultation with RWQCB staff), corrective action will be taken. A corrective action plan will be submitted to RWQCB staff for review and feedback, and may include, but will not necessarily be limited to, the following: managing wetland inputs seasonally, managing wetland throughput to modify residence times, and capping of bottom sediment in the location producing exceedance. If/when sampling has shown that NCCA wetlands are not increasing methylmercury above input levels over 3 consecutive years of testing, no further action with regard to aqueous methylmercury will be required.

To enable the NCCA projects to contribute to long-term increased understanding of mercury cycling in enhanced and restored wetlands, the City will provide the RWQCB with annual reports describing that year's (1) sampling and analysis activities, (2) results, and (3) corrective actions implemented, if any. Activities and results will be detailed on a project-specific basis, but monitoring reports for all three projects may be combined for efficiency.

Mitigation Measure C-3. Integrated Pest Management and Limited Use of Chemical Pesticides

Pest and invasive species control at the NCCA—whether conducted by City staff or by contractor(s) retained by the City—will emphasize Integrated Pest Management (IPM) practices consistent with prevailing best practices and current guidance of the Integrated Pest Management Institute of North America. The City's Public Works Department will be responsible for ensuring that IPM is the go-to standard operating procedure for the NCCA.

	Use of chemical pesticides and herbicides will be avoided to the extent practicable at the NCCA while maintaining habitat function and quality and appropriate public recreation values. Pesticides and herbicides for which impairments have been identified in immediate downstream receiving waters (the Newman Wasteway and San Joaquin River) will not be used under any circumstances. As of 2021, prohibited substances are Group A pesticides, chlorpyrifos, diazinon, diuron, and simazine, in addition to all substances banned in the United States. The City's Public Works Department will be responsible for reviewing the State Water Resources Control Board's Clean Water Act Section 303[d] list as it is updated and ensuring that if additional pesticide or herbicide impairments are identified in the Newman Wasteway or San Joaquin River downstream of Mud Slough, these substances are added to the list of substances prohibited at the NCCA.
Reference Cited:	City of Newman. 2021. Newman Community Conservation Area Master Plan. (Third Administrative Draft.) (February.) Prepared for City of Newman by Redtail Consulting, Fremont, CA. Appendix A to the attached Initial Study.

Determination

In accordance with local procedures for compliance with the California Environmental Quality Act (CEQA), the Public Works Department has completed the attached Initial Study to evaluate the potential for the NCCA Master Plan and the projects it comprises to result in significant adverse effect(s) on the environment, and on the basis of analysis in the Initial Study recommends the following determination.

- Although the projects have the potential to result in significant effects on the environment, there would not be a significant effect in this case because revisions in the project (in the form of mitigation measures) have been made by or agreed to by the project proponent
- A Mitigated Negative Declaration should be prepared
- An Environmental Impact Report (EIR) is not required

Findings

Based on the analysis and findings presented in the project Initial Study (attached), implementation of the NCCA Master Plan and the projects it comprises will not have a significant effect on the environment, for the following reasons.

- As discussed in Section 3 of the Initial Study, with the identified Avoidance and Minimization Measures and mitigation measures incorporated, potential short- and long-term environmental impacts would be avoided or reduced to Less than Significant levels
- The NCCA Master Plan and projects would not substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory
- For the most part, the NCCA Master Plan and projects would not make Considerable contributions to existing Significant cumulative impacts nor would they individually or collectively create new Significant

cumulative impacts over time. Thus, for the most part, they would not have impacts that are individually limited, but Cumulatively Considerable.

However, as with many wetland projects in California, there is a possibility that the NEWS, wetland, and MDTW projects could result in increased mercury methylation. Offsite discharges from the NEWS and MDTW projects could thus exacerbate existing downstream levels of bioavailable mercury, potentially rising to the level of a Cumulatively Considerable contribution to the existing Significant impact related to impairment of downstream waters for mercury. All three projects could also increase bioaccumulation of methylmercury, potentially making a Cumulatively Considerable contribution to existing mercury bioaccumulation documented regionally, and/or, over time, creating a new Significant impact with regard to local bioaccumulation of methylmercury. To address these concerns, the City has committed to implementing Mitigation Measures C-1 (Pre- and Post-Construction Soil Testing for Mercury) and C-2 (Aqueous Mercury Monitoring and Management).

Mitigation Measure C-1 provides for pre-construction mercury testing of soils in the NEWS, wetland, and MDTW footprints and requires the City to offhaul and appropriately dispose of any soils exceeding a mercury content threshold approved by the RWQCB, or to limit the use of such soils use to lower lifts of fill where they will not be exposed at the surface and will not be subject to surface water flow or ponding when the project is complete. Mitigation Measure C-1 also requires the City to conduct post-construction soil testing before water flows are introduced to the NEWS, wetland, and MDTW projects to verify that soils with elevated mercury levels have successfully been excluded or contained, and prescribes corrective actions under RWQCB oversight in the event this is not the case. Mitigation Measure C-2 requires ongoing aqueous mercury monitoring and management at the NEWS, wetland, and MDTW projects until it has been shown that the projects are not increasing methylmercury levels above values in input waters.

With these measures in place, the three projects' individual and collective contributions to existing downstream impairments for mercury and to existing regional bioaccumulation of methylmercury would be reduced to the extent feasible and would be under RWQCB oversight. The projects' individual and collective potential to result in a new, localized cumulative impact with regard to mercury bioaccumulation would also be reduced to the extent feasible and would be under RWQCB oversight. In addition, with Mitigation Measure C-2 incorporated, the NEWS, wetland, and MDTW projects stand to provide a Benefit to understanding of mercury presence and cycling in constructed and restored San Joaquin Valley wetlands. Residual contributions, and residual impacts, if any, are considered Less than Cumulatively Considerable and Less than Significant respectively.

Additionally, there is some potential that O&M at the NCCA could make a Cumulatively Considerable contribution to existing impairments for pesticides and herbicides in the Newman Wasteway and San Joaquin River, which also represent a Significant existing cumulative impact. However, Mitigation Measure C-3 (Integrated Pest Management and Limited Use of Chemical Pesticides) will require O&M activities to emphasize Integrated Pest Management (IPM) techniques and avoid of the use of chemical pesticides and herbicides to the extent feasible. It also prohibits the use of the specific pesticides and herbicides for which impairments have been identified in the Newman Wasteway and San Joaquin River under any circumstances. As of 2020, prohibited substances are Group A pesticides, chlorpyrifos, diazinon, diuron, and simazine. Under Mitigation Measure C-3, the City's Public Works Department will be responsible for reviewing the State Water Resources Control Board's Clean Water Act Section 303[d] list as it is updated and ensuring that if additional pesticide or herbicide impairments are identified in the Newman Wasteway or San Joaquin River downstream of Mud Slough, these substances are added to the list of pesticides and herbicides prohibited at the NCCA. With Mitigation

Measure C-3 in place, the NCCA projects' contributions to existing identified impairments for pesticides and herbicides in the Newman Wasteway and San Joaquin River would be reduced to a Less than Cumulatively Considerable level.

Per *CEQA Guidelines* Section 15065[b][1], if, prior to public review of an environmental document, a project proponent agrees to mitigation that would clearly avoid impacts that are individually limited, but Cumulatively Considerable, or would mitigate the impact to a level that is clearly Less than Significant, the lead agency is not obligated to prepare an Environmental Impact Report solely because the impact at issue would have been Significant without mitigation. Mitigation Measures C-1, C-2, and C-3 satisfy this requirement for their respective impacts, and an Environmental Impact Report is not required as a result of this finding

- The NCCA Master Plan and projects would not result in environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly

This determination reflects the independent judgment of the City.

Kathryn Reyes
Director of Public Works

Date

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