# Exhibit B

## Monterey Plus Final Revised EIR

# EXHIBIT B
# MONTEREY AMENDMENT TO THE STATE WATER PROJECT CONTRACTS (INCLUDING KERN WATER BANK TRANSFER) AND ASSOCIATED ACTIONS AS PART OF A SETTLEMENT AGREEMENT (MONTEREY PLUS) (2016 MONTEREY PLUS REVISED EIR – KERN WATER BANK DEVELOPMENT AND CONTINUED USE AND OPERATION)

## FINDINGS AND DETERMINATIONS

## INTRODUCTION

The California Environmental Quality Act (CEQA) Guidelines Section 15091 (Findings) states:

> (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
>
> > (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
> >
> > (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
> >
> > (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
>
> (b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.
>
> (c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subdivision (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.
>
> (d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements or other measures.
>
> (e) The public agency shall specify the location and custodian of the documents or other material which constitute the record of the proceedings upon which its decision is based.
>
> (f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

On November 24, 2014, Sacramento County Superior Court (Court) issued a writ of mandate in *Rosedale et al. v. California Department of Water Resources* (Sacramento County Superior Court Case No. 34-2010-80000703) (*Rosedale v. DWR*) and *Central Delta Water Agency, et al v. California Department of Water Resources* (Sacramento County Superior Court Case No. 37-2010-80000561). Among other things, the Court requires the California Department of Water Resources (Department or DWR) to lodge with the Court: (i) the revised Monterey Plus EIR, and (ii) DWR's certification of and findings, regarding same.

The proposed project analyzed in the Monterey Plus EIR was the Monterey Amendment and the Settlement Agreement. The Monterey Plus EIR considered five "elements" of the Monterey Amendment, including "Transfer of property known as the 'Kern Fan Element property' in Kern County." These findings for the REIR address the description of the Kern Fan Element property transfer as changed in the Draft REIR on page ES-4 as follows:

- Transfer of property known as the "Kern Fan Element property" in Kern County *and its development and continued use and operation as a locally owned and operated groundwater banking and recovery project (KWB activities)*.

These REIR findings for the KWB activities do not supersede the findings of the Monterey Plus EIR but supplement the findings of the Monterey Plus EIR. In relation to the KWB, the Monterey Plus EIR focused on the *transfer* of the KFE property. The REIR did not identify any new impacts or changes to impacts caused by the transfer of the KFE property. The Monterey Plus EIR fully disclosed all impacts caused by the transfer of the KFE property; the findings for the Monterey Plus EIR that were set aside when DWR vacated its February 1, 2010 certification of the Monterey Plus EIR remain valid as written. The findings presented herein pertain only to Document A1 (2016 Monterey Plus Draft Revised EIR – Kern Water Bank Development and Continued Use and Operation) and Document A2 (2016 Monterey Plus Final Revised EIR – Kern Water Bank Development and Continued Use and Operation). The unchanged findings for the Monterey Plus EIR (Documents B and C of the REIR) and these new supplemental findings for the 2016 REIR, covering KWB development and continued use and operation, together constitute the complete findings for the Monterey Plus REIR. To the extent that any findings made in support of the Monterey Plus EIR conflict with the findings made here, these findings control.

The Final REIR is the Draft REIR, the Final REIR, and related appendices. As required by CEQA Guidelines Section 15132, the Final REIR includes a list of persons, organizations, and public agencies that commented on the Draft REIR; comments and recommendations received on the Draft REIR either verbatim or in summary; and the Department's responses to significant environmental points raised in the review and consultation process.

As required by CEQA Guidelines Section 15091(e), the custodian and location of the Final REIR and other documents or other materials which constitute the record of the proceedings are as follows:

California Department of Water Resources
3374 E. Shields Avenue
Fresno, CA 93726

Other documents included in the administrative record may be found in other locations, but can be obtained by contacting the custodian of records identified above.

## ORGANIZATION

This document is divided into the following parts.

Part I: Project Specific Findings on Kern Water Bank Environmental Effects
- Part A: Potentially Significant Impacts Reduced to Less than Significant
- Part B: Potentially Significant and Unavoidable Impacts

Part II: Findings Regarding Alternatives to the Proposed Project

## PART I

## PROJECT SPECIFIC FINDINGS ON KERN WATER BANK ENVIRONMENTAL EFFECTS

Because the KWB has been operating for more than 20 years, the REIR analyzes two time periods - historical or past (1995-2014) and future (2015-2035). Both time periods have a baseline of 1995, consistent with the Monterey Plus EIR. In the historical or past time period of 1995-2014, the Final REIR found that the KWB had no significant impacts. In the future time period of 2015-2035, the Final REIR identifies several potentially significant impacts.

As identified in Part A, most of the potentially significant future impacts will be reduced to less-than-significant with incorporation of identified mitigation measures. The Department finds that incorporating the changes or alterations recommended in the mitigation measures into the proposed project will avoid or substantially lessen the potentially significant environmental impacts as identified in the Final REIR.

As identified in Part B, some potentially significant future impacts would be cumulative impacts related to growth that will not be reduced to a less-than-significant level by the inclusion of mitigation measures identified in the Final REIR as part of proposed project approval. This is either because there are no feasible mitigation measures or the feasible mitigation measure(s) would only partially mitigate these significant cumulative impacts and the residual effect would remain significant. These are therefore significant and unavoidable impacts attributable to the proposed project. See Exhibit C for a Statement of Overriding Considerations relating to significant and unavoidable impacts.

In addition to the specific findings, Part A and Part B provide the rationale and background supporting the findings. They summarize the potentially significant impacts and recommended mitigation measures, referencing both the impact and mitigation measure number, if any, as found in the relevant sections of the Draft REIR. These summaries and references to the Draft REIR and/or Final REIR are not intended to be a comprehensive restatement of the analysis in the Final REIR or other information in the record and do not substitute for those documents, but rather, provide background and context for the particular findings. These mitigation measures are also included in the Mitigation, Monitoring and Reporting Program (MMRP) found in Exhibit D.

In these findings presented below, impacts are grouped together by activity and resource, and include the related cumulative impacts. Below is a list of the impacts for Part A and Part B, with details provided in the subsequent sections.

Part A: Potentially Significant Impacts Reduced to Less-than-Significant Level

Transfer, Development, and Continued Use and Operation of the Kern Fan Element Property:

Impact 7.1-2: Reduced groundwater levels
Impact 10.1-24: Reduced groundwater table (cumulative)
Impact 7.1-7: Increased groundwater levels
Impact 10.1-25: Increased groundwater table (cumulative)
Impact 7.2-1: Groundwater quality (Construction and Maintenance)
Impact 10.1-28: Groundwater quality (cumulative)
Impact 7.2-2: Groundwater quality (Operations)
Impact 10.1-29: Groundwater quality (cumulative)
Impact 7.2-3: Groundwater quality (Operation of Oil and Gas)
Impact 10.1-30: Groundwater quality (cumulative)
Impact 7.2-6: Water quality
Impact 7.4-3: Special-status terrestrial biological resources
Impact 10.1-39: Special-status terrestrial biological resources (cumulative)
Impact 7.8-1: Erosion
Impact 7.11-1: Hazardous materials (Construction Activities – Workers)
Impact 7.11-2: Hazardous materials (Construction Activities – Public)
Impact 7.11-4: Hazardous materials (Construction Activities – Accidents)
Impact 7.11-6: Airborne vectors or waterborne disease
Impact 10.1-58: Airborne vectors or waterborne disease (cumulative)
Impact 7.13-1: Cultural and paleontological resources
Impact 10.1-61: Cultural and paleontological resources (cumulative)
Impact 7.16-2: Energy consumption
Impact 10.1-66: Energy consumption (cumulative)
Impact 12-1: Greenhouse gas emissions (GHG) and climate change
Impact 10.1-68: GHG and climate change (cumulative)

Part B: Potentially Significant and Unavoidable Impacts

Transfer, Development, and Continued Use and Operation of the Kern Fan Element Property:

Impact 10.1-69: Growth-inducing impacts to aesthetics, air quality and climate change, agricultural resources, biological resources, noise, population and housing, public services, and transportation and traffic (cumulative)

## PART I.A

## POTENTIALLY SIGNIFICANT IMPACTS REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL BY MITIGATION MEASURES INCORPORATED INTO THE PROPOSED PROJECT

### 1. Transfer, Development, and Continued Use and Operation of the Kern Fan Element Property

The Draft REIR determined that there were no new significant impacts that could result from the transfer of the Kern Fan Element property from the Department to Kern County Water Agency (KCWA) which thereafter transferred the property to the Kern Water Bank Authority (KWBA).

The Draft REIR did, however, identify a number of significant impacts that could result from the development, and continued use and operation of the Kern Water Bank. Although generally the KWBA lands are called the "Kern Fan Element (KFE) property" when owned by the Department and the "Kern Water Bank (KWB) Lands" when owned by KWBA, the Draft REIR also used the term Kern Fan Element (KFE) property when it referred to the property after it had been transferred. Kern Fan Element or KFE property or KFE as used below refer to the property both before and after the transfer.

In 1995, KWBA constructed approximately 3,034 acres of shallow recharge ponds in the Kern Fan Element. From 1998 through 2003, KWBA constructed an additional 4,290 acres of recharge ponds, some of which overlapped earlier constructed ponds, for a total net pond area of 7,114 acres in 2003, in the Kern Fan Element. An additional 70 acres of ponds were constructed in 2009 for a total pond area of 7,184 acres. KWBA also constructed the Kern Water Bank Canal, a six-mile long earthen canal extending from the Kern River to the California Aqueduct. No significant adverse impacts to any environmental resources occurred during this period as a result of this action. Near-term future KWB activities include construction of approximately 190 acres of recharge ponds and three wells under the ongoing Integrated Regional Water Management (IRWM) program. Longer-term future construction of approximately 862 acres of additional recharge ponds and associated facilities is anticipated as part of full build-out. In addition to the new recharge ponds wells and associated facilities, other activities could include: fencing, constructing replacement recovery wells, installing and replacing pipeline, and installing weir boxes. Maintenance of existing and new basins, wells, and ancillary facilities would also take place. Future operation and maintenance of these additional facilities and these additional land use changes or construction could have adverse environmental impacts, which are discussed below.

The Department analyzed whether the KWB's development, use and operation caused an increase in the conversion of crops from annual row crops to perennial/permanent crops. The Department concludes that numerous factors are causing the increase in permanent crops in Kern County, and the shift is not due to KWB activities. (See Draft REIR, page 7.6-13.) KWB activities do not directly or indirectly cause conversion to permanent crops. Changes in farming practices in the KWB participants' service area are consistent with the county-wide trend and with a state-wide trend even in areas that do not depend upon water banks for water storage. The trend from row crops to permanent crops is not only a local

shift in Kern County but a regional shift throughout the San Joaquin Valley and a statewide shift throughout California. The amount of permanent crop acreage is directly related to commodity price. Also, the State policy to increase agricultural irrigation efficiency requires a more expensive irrigation system requiring the production of more valuable crops. (Final REIR, pages 4-3 to 4-8.)

Draft REIR section 7.0.4, Types of Mitigation Measures, pages 7.0-4 through 7.0-9, describes the types of mitigation measures applied in the REIR, including discussions regarding their performance standards. These include mitigation measures from the 1997 Monterey Initial Study and Addendum (Draft REIR Appendix 7-6a) that are included in the Draft REIR and the 2016 Kern Water Bank Authority Resolution in April 2016 (Draft REIR Appendix 7-6b), which commit KWBA to implement specific mitigation measures included in the REIR. These mitigation measures have clear, enforceable performance standards that can be relied upon to reduce potentially significant impacts to less-than-significant impacts.

**IMPACT 7.1-2: KWB operations could potentially deplete groundwater supplies so that a lowering of the local groundwater table level would occur (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted).**

Most private wells in the study area are perforated at least approximately 400 feet below the ground surface (bgs) and produce water at rates that meet domestic water use requirements. Modeling results indicate that KWB activities would lower groundwater levels to approximately 340 feet bgs at the end of the 2015 recovery period and to approximately 310 feet bgs at the end of the 2033-2035 recovery period. This would leave approximately 60 feet of screened well below the water level, which would provide adequate flow to support operation at sufficient production rates for private wells. Therefore, KWB activities are not expected to have a significant effect on operation of neighboring private landowner wells under historical low groundwater conditions except on those wells that are perforated to a depth less than 380 feet bgs, which would result in less than 20 feet of screened well below water for usage.

Most production wells operated by neighboring water districts have screens that are perforated in the deep aquifer up to approximately 700 feet bgs, and therefore KWB activities are not expected to have a significant effect on operation of neighboring production wells under historical low groundwater conditions.

However, whether KWBA's operations would cause an impact that would be potentially significant at a specific agricultural or domestic well would depend on several factors, such as location of the well, depth of the well and operational depth of the pump, pump efficiency, and pumping rate. Because all of this information for each well is not known, the specific potential impacts of KWB activities with respect to lowering of the local groundwater table at specific wells could not be determined through modeling alone. Consequently, lowering of the local water table at sites in the vicinity of KWB could have adverse effects at individual wells which would be potentially significant.

**Mitigation Measure 7.1-2:** KWBA is legally required to follow Mitigation Measure 7.1-2 described in the Draft REIR on pages 7.1-49 through 7.1-54 to establish a program that

meets requirements in accordance with the Long-Term Project Recovery Operations Plan regarding the Kern Water Bank Project (2016 KWB Long-Term Operations Plan, Appendix 7-5c). These measures include monitoring and reporting of the KWB's groundwater conditions to KWBA's Board of Directors and the public, implementing proactive measures such as forecasting of groundwater conditions, implementing triggers and actions to provide compensation for affected and eligible well owners if groundwater levels decline to specific levels, and implementing actions for agricultural and domestic wells when well adjustment is needed.

KWBA has adopted the 2016 KWB Long-Term Project Recovery Operations Plan (Draft REIR Appendix 7-5c) that prevents, eliminates, or mitigates potential impacts from the KWB. Together with Mitigation Measure 7.1-2, these actions will avoid, reduce, and/or minimize potentially significant impacts to groundwater levels in domestic and agricultural wells associated with KWB operations to a less-than-significant level. (Draft REIR pages 7.1-40 through 7.4-54.)

**IMPACT 10.1-24: Implementation of KWB activities in combination with regional and local water banking projects could potentially deplete groundwater supplies so that a lowering of the local groundwater table level would occur (e.g., the production rate of preexisting nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted).**

The impact of lowering groundwater elevations because of future KWB operations under the build-out (2030) level of development would be potentially significant. Consecutive years of recovery may cause groundwater levels to decrease such that some existing wells in an area immediately outside KWB Lands could become inoperable, thereby reducing short-term water supplies and adversely affecting land uses dependent on these supplies. However, whether the impact actually would be significant (i.e., substantial) would depend on several factors, including the specific field conditions and physical characteristics of the agricultural and domestic wells in the affected area (e.g., well location, operational depth of the well pump, pump efficiency, and overlying land use). All groundwater banks generally have similar operations: recharge when water supplies are available and recovery when water supplies are scarce. Consequently, numerous water banks adjacent to the KWB and in the same region would operate similarly and potentially result in an overall significant cumulative impact.

**Mitigation Measure 10.1-24:** To reduce Cumulative Impact 10.1-24, Mitigation Measure 10.1-24 will be implemented, which will require implementing the measures described in Mitigation Measure 7.1-2 (Draft REIR page 10.1-20). These measures include monitoring and reporting of the KWB's groundwater conditions to KWBA's Board of Directors and the public, implementing proactive measures such as forecasting of groundwater conditions, implementing triggers and actions to provide compensation for affected and eligible well owners if groundwater levels decline to specific levels, and implementing actions for agricultural and domestic wells when well adjustment is needed.

KWBA has adopted the 2016 KWB Long-Term Project Recovery Operations Plan (Draft REIR Appendix 7-5c) that prevents, eliminates, or mitigates potential impacts from the KWB. Together with Mitigation Measure 7.1-2, these actions will avoid, reduce, and/or

minimize the cumulative contribution to substantial depletion of groundwater supplies, or of substantial interference with groundwater recharge from KWB operations to a less-than-considerable level. (Draft REIR pages 10.1-19 and 10.1-20.)

**IMPACT 7.1-7: Raise groundwater levels sufficiently to substantially impact existing infrastructure (e.g., Cross Valley Canal).**
The results of groundwater modeling indicate that KWB operational conditions during periods of KWB recharge could cause groundwater levels to increase. High groundwater resulting from natural conditions, offsite recharging, or recharging on the KWB Lands could affect the integrity of Cross Valley Canal (CVC) structures or cause cracks in sub-surface concrete panels. Therefore, the impact of KWB activities with regard to the effect of high groundwater levels during recharge on the CVC could be potentially significant.

**Mitigation Measure 7.1-7:** KWBA is legally required to follow Mitigation Measure 7.1-7 described in the Draft REIR on page 7.1-62 in accordance with the KCWA and KWBA CVC Agreement (Draft REIR Appendix 7-5e) because KWBA committed to carry it out pursuant to the 2016 KWBA Resolution (Draft REIR Appendix 7-6b). This mitigation measure includes monitoring groundwater levels, evaluating groundwater conditions, coordinating water banking operations with KCWA, and managing recharge operations to help ensure that the groundwater gradient is away from the CVC during shallow groundwater conditions.

Implementation of this mitigation will avoid, reduce, and/or minimize potentially significant impacts to the CVC from KWB recharge to a less-than-significant level. (Draft REIR pages 7.1-61 through 7.1-62.)

**IMPACT 10.1-25: Implementation of KWB activities in combination with regional and local water banking projects could potentially result in cumulatively considerable impacts related to the alteration of water levels in a groundwater basin that substantially affect existing infrastructure (e.g., conveyance facilities).**

Future recharge operations at the KWB could result in high groundwater elevations within KWB Lands and nearby lands. Historic recharge operations at the KWB during the past recharge periods of 1995-1998, 2005-2006, and 2011, concomitant with similar recharge operations at other neighboring groundwater banks, resulted in high groundwater elevations within KWB Lands and surrounding areas. Approximately 7 miles of the CVC are located within KWB Lands, and past high groundwater elevations resulted in damages to the CVC lining in the mid-1990s. KWB operations could interact with similar nearby groundwater banks on specific sections of the CVC to cause damage. KWB operations during periods of KWB recharge could cause groundwater levels to increase. High groundwater resulting from natural conditions, offsite recharging, or recharging on KWB Lands could therefore affect the integrity of CVC structures or cause cracks in sub-surface concrete panels. Therefore, KWB activities could make a cumulatively considerable incremental contribution to a significant cumulative impact on the CVC, which would be a significant cumulative impact.

**Mitigation Measure 10.1-25:** To reduce Cumulative Impact 10.1-25, Mitigation Measure 10.1-25 will be implemented, which will require implementing Mitigation Measure 7.1-7

(Draft REIR page 10.1-21). This measure includes monitoring groundwater levels, evaluating groundwater conditions, coordinating water banking operations with KCWA, and managing recharge operations to help ensure that the groundwater gradient is away from the CVC during shallow groundwater conditions.

Implementation of this mitigation will avoid, reduce, and/or minimize the cumulative contribution to potential damage to CVC facilities from KWB recharge to a less-than-considerable level. (Draft REIR pages 10.1-20 through 10.1-21.)

**IMPACT 7.2-1: KWB construction and maintenance activities could potentially change groundwater quality.**

Ongoing future facility maintenance and well rehabilitation, and construction of additional recharge ponds and other ancillary facilities, would occur. All infrastructure requires construction and maintenance, including the numerous production wells and monitoring wells on KWB Lands. Rehabilitation necessary to maintain the yield of production wells generally consists of the addition of chemicals to break down slime or iron bacteria mass or encrustation that reduce the size of the well perforations. Furthermore, unexpected chemical or other spills and overall construction activities near surface and groundwater sources have the potential to adversely affect groundwater quality. Therefore, impacts from KWB construction and maintenance activities on groundwater quality could be potentially significant.

**Mitigation Measure 7.2-1:** To mitigate Impact 7.2-1, the measures described in Mitigation Measure 7.2-1 (Draft REIR page 7.2-41) will be implemented, which will require compliance with Mitigation Measures 7.11-1(a) and 7.8-1(a), as well as compliance with well permitting requirements under the Kern County Environmental Health Program. Mitigation Measure 7.11-1(a) requires that future construction contracts include language requiring contractors to comply with applicable Statewide hazardous materials management laws and regulations. Mitigation Measure 7.8-1(a) requires compliance with National Pollutant Discharge Elimination System (NPDES) permit requirements, which include preparation of a site-specific Stormwater Pollution Prevention Plan (SWPPP) and implementation of Best Management Practices (BMPs) specifically designed to control erosion and reduce the transport of sediment and other pollutants.

Implementation of this mitigation will avoid, reduce, and/or minimize the potential for degradation of groundwater quality from ongoing construction and maintenance activities associated with KWB facilities on KWB Lands to a less-than-significant level. (Draft REIR pages 7.2-40 and 7.2-41.)

**IMPACT 10.1-28: Implementation of KWB activities in combination with regional and local water banking projects could potentially change groundwater quality from construction and maintenance activities.**

All infrastructure requires construction and maintenance, including the numerous production wells and monitoring wells on KWB Lands. Rehabilitation necessary to maintain the yield of production wells generally consists of the addition of chemicals to breakdown slime or iron

bacteria mass or encrustation that reduce the size of the well perforations. KWB operations and maintenance activities in combination with KWBA's proposed Kern Water Bank Recharge and Recovery Project, KWB Conservation and Storage Project, and other similar nearby groundwater banks, could make a cumulatively considerable incremental contribution to a significant cumulative impact on groundwater quality, which would be a potentially significant cumulative impact.

**Mitigation Measure 10.1-28:** To reduce Cumulative Impact 10.1-28, Mitigation Measure 10.1-28 will be implemented, which will require implementing Mitigation Measure 7.2-1 (Draft REIR page 10.1-22). This mitigation measure requires compliance with Mitigation Measures 7.11-1(a) and 7.8-1(a), as well as compliance with well permitting requirements under the Kern County Environmental Health Program. Mitigation Measure 7.11-1(a) requires that future construction contracts include language requiring contractors to comply with Stateside applicable hazardous materials management laws and regulations. Mitigation Measure 7.8-1(a) requires compliance with NPDES permit requirements, which include preparation of a site-specific SWPPP and implementation of BMPs specifically designed to control erosion and reduce the transport of sediment and other pollutants.

Implementation of this mitigation will avoid, reduce, and/or minimize the cumulative contribution to potential degradation of groundwater quality from ongoing construction and maintenance activities associated with KWB facilities on KWB Lands to a less-than-considerable level. (Draft REIR page 10.1-22.)

**IMPACT 7.2-2: KWB operations could mobilize contamination in soils or the unsaturated zones associated with hazardous waste sites or oil and gas production operations and potentially degrade groundwater quality.**

Groundwater modeling results indicate that KWB operations could result in groundwater levels that could rise above 50 feet and 25 feet bgs for limited periods of time (wherein the potential to mobilize some contaminants of concern [COCs] present in that shallow zone could occur). Modeled particle tracking results indicate that groundwater particles (and COCs, if present and mobilized) would remain within a mile of the two sites of concern where known contamination is present (i.e., the Uhler Firefighting Training Facility and the Grayson Site). Both sites are under Central Valley Regional Water Quality Control Board (CVRWQCB) oversight. At the Uhler Firefighting Training Facility, remediation of contaminated soil is considered complete (as of February 2012) and groundwater monitoring is ongoing. At the Grayson Site, work is just starting to be implemented under a Cleanup and Abatement Order (issued August 15, 2015) respective to soil and groundwater contamination associated with three oil field production wastewater holding ponds.

Therefore, the impact of KWB operations in relation to the two sites on groundwater quality could be potentially significant until such time that the CVRWQCB indicates that groundwater under the Uhler Firefighting Training area is not impacted and that soil and/or groundwater under the Grayson Site is not impacted.

**Mitigation Measure 7.2-2:** KWBA is legally required to follow Mitigation Measures 7.2-2(b), (c), and (d) described in the Draft REIR on page 7.2-49 because KWBA committed to carry them out pursuant to the 2016 KWBA Resolution (Draft REIR Appendix 7-6b). These

measures include KWBA cooperation with regulatory agencies during cleanup of hazardous waste sites, onsite groundwater monitoring and reporting, and reporting on the status of third-party remediation to the Kern Fan Monitoring Committee. In addition, KWBA will be required to comply with Mitigation Measure 7.2-2(a), which requires compliance with Draft REIR Mitigation Measure 7.11-4.

Implementation of this mitigation will avoid, reduce, and/or minimize the impacts of KWB activities on groundwater, with regard to mobilization of contamination in soils or the unsaturated zones associated with hazardous waste sites or oil and gas production operations, to a less-than-significant level. (Draft REIR pages 7.2-47 through 7.2-49.)

**IMPACT 10.1-29: Implementation of KWB activities in combination with regional and local water banking projects could potentially degrade groundwater quality from mobilization of contamination associated with hazardous waste sites or oil and gas production operations.**

Groundwater modeling results indicate that KWB operations would only result in groundwater levels that could rise above 50 feet and 25 feet bgs for limited periods of time wherein COCs could be mobilized. Modeled particle tracking results indicate that groundwater particles (and COCs, if present and mobilized) would remain within a mile of the two sites of concern where known contamination is present (the Uhler Firefighting Training Facility and the Grayson Site). Both sites are under CVRWQCB oversight. At the Uhler Firefighting Training Facility, remediation of contaminated soil is considered complete (as of February 2012) and groundwater monitoring is ongoing. At the Grayson Site, work is just starting to be implemented under a Cleanup and Abatement Order (issued August 15, 2015) respective to soil and groundwater contamination associated with three oil field production wastewater holding ponds. Therefore, the impact of KWB operations in relation to the two sites on groundwater quality would be a cumulatively considerable incremental contribution to this potentially significant cumulative impact until such time that the CVRWQCB indicates that groundwater under the Uhler Firefighting Training area is not impacted and that soil and/or groundwater under the Grayson Site is not impacted. This would be a potentially significant cumulative impact.

**Mitigation Measure 10.1-29:** To reduce Cumulative Impact 10.1-29, Mitigation Measure 10.1-29 will be implemented, which will require implementing Mitigation Measure 7.2-2 (Draft REIR page 10.1-23). This measure includes KWBA cooperation with regulatory agencies during cleanup of hazardous waste sites, onsite groundwater monitoring and reporting, and reporting on the status of third-party remediation to the Kern Fan Monitoring Committee.

Implementation of this mitigation will avoid, reduce, and/or minimize the cumulative contribution of KWB activities on groundwater quality with regard to mobilization of contamination in soils or the unsaturated zones associated with hazardous waste sites or oil and gas production operations to a less-than-considerable level. (Draft REIR pages 10.1-22 and 10.1-23.)

**IMPACT 7.2-3: The operation of oil and gas production wells within and surrounding KWB Lands could potentially degrade the quality of KWB water supplies.**

KWB Lands are situated across four active oil and gas fields: Coles Levee, North; Strand Oil Field; Ten Section Oil Field; and Canal Oil Field. While these oilfield wells are situated on KWB Lands, they are not operated or associated with KWB operations or with KWBA. The wells are operated by third parties holding mineral rights or leases. There are a total of 31 active, 11 idle, and 152 abandoned oil and gas wells on KWB Lands. Future recharge ponds are proposed in areas of plugged and abandoned oil production wells. Typical construction of oil wells includes an upper casing and cement seal from ground surface to a depth of approximately 500 feet. Groundwater level changes during recharge or recovery from KWB operations have maximum depths of approximately 250 feet. Therefore, changing water levels from KWB activities would not significantly affect either active or abandoned oil wells. However, construction of future recharge ponds may potentially damage the near surface portion or the top of plugged or abandoned wells. In addition, well casing failures during oil and gas production, wastewater injection, and/or well stimulation could cause a release of petroleum constituents, oil field brines, and/or well stimulation fluid into the freshwater aquifer, any of which may substantially degrade groundwater quality. Therefore, the impacts of the operation of oil and gas production wells within and surrounding KWB Lands on the quality of KWB water supplies could be potentially significant.

**Mitigation Measure 7.2-3:** KWBA is legally required to follow Mitigation Measure 7.2-3 described in the Draft REIR on page 7.2-51 because KWBA committed to carry them out pursuant to the 2016 KWBA Resolution (Draft REIR Appendix 7-6b). Mitigation Mesaures 7.2-3(a) and (b) require KWBA to identify all plugged and abandoned wells through contacts with appropriate agencies such as the California Division of Oil, Gas & Geothermal Resources (DOGGR), and to conduct excavation and grading activities such that the near surface seals and wellhead of identified well remain undamaged. Mitigation Measure 7.2-3(c) requires KWBA to notify the appropriate agencies such as DOGGR or CVRWQCB if any damage to these wells facilities occurs along with plans to repair the damage.

Implementation of this mitigation will avoid, reduce, and/or minimize the potential for degradation of groundwater quality from ongoing third-party operation of oil and gas wells on KWB Lands to a less-than-significant level. (Draft REIR pages 7.2-50 and 7.2-51.)

**IMPACT 10.1-30: Implementation of KWB activities in combination with regional and local water banking projects could potentially have their water quality degraded from the operation of oil and gas production wells on KWB Lands and nearby.**

KWB Lands are situated across four active oil and gas fields: Coles Levee, North; Strand Oil Field; Ten Section Oil Field; and Canal Oil Field. While these wells are situated on KWB Lands, they are not operated or associated with KWBA. KWB operation in combination with KWBA's proposed projects and other proposed nearby banking projects in the areas of other oil and gas production wells could contribute to degradation of groundwater quality if new recharge ponds were constructed in areas of improperly plugged or abandoned oil and gas wells. Likewise, well casing failures during oil and gas production, wastewater injection, and/or well stimulation could cause a release of petroleum constituents, oil field brines,

and/or well stimulation fluid into the freshwater aquifer, which may substantially degrade groundwater quality. Therefore, the cumulative impacts of the operation of oil and gas production wells within and surrounding KWB lands on the quality of KWB water supplies could be a potentially significant cumulative impact.

**Mitigation Measure 10.1-30:** To reduce Cumulative Impact 10.1-30, Mitigation Measure 10.1-30 will be implemented, which will require implementing Mitigation Measure 7.2-3 (Draft REIR page 10.1-23). This measure requires KWBA to identify all plugged and abandoned wells through contacts with appropriate agencies, conduct excavation and grading activities such that the near surface seals and wellhead of identified well remain undamaged, and notify the appropriate agencies such as DOGGR or CVRWQCB if any damage to these wells facilities occurs along with plans to repair the damage.

Implementation of this mitigation will avoid, reduce, and/or minimize the cumulative contribution to potential degradation of groundwater quality from ongoing construction and maintenance activities associated with KWB facilities with regards to third-party oil and gas wells to a less-than-considerable level. (Draft REIR pages 10.1-23.)

**IMPACT 7.2-6: KWB construction, development, and maintenance could potentially change water quality in the Kern River.**

Construction of the proposed new percolation ponds would require excavation, grading, and re-contouring of the soils at the recharge pond sites. During these activities, soils could become exposed to high winds or heavy precipitation causing a substantial increase in sedimentation in storm water run-off and loss of topsoil. In addition, construction activities would require the use of hazardous materials including but not limited to petroleum products (i.e., oil, gasoline, and diesel fuels) and automotive fluids (i.e., antifreeze and hydraulic fluids). Inadvertent spills or leaks of such pollutants could affect the quality of runoff water from the construction sites. Construction activities may require discharges with a low threat to water quality or are low volume discharges with minimal pollutant concentrations. These discharges may be discharged to land or to surface waters. Therefore, KWB construction, development, and maintenance could contribute to degradation of water quality in the Kern River. Therefore, impacts to surface water quality in the Kern River from KWB activities could be potentially significant.

**Mitigation Measure 7.2-6:** To mitigate Impact 7.2-6, the measures described in Mitigation Measure 7.2-6 (Draft REIR page 7.2-67) will be implemented, which will require compliance with Mitigation Measures 7.2-1, 7.2-2, 7.2-3, 7.8-1(a) and (b), and 7.11-2.

Mitigation Measure 7.2-1 requires compliance with Mitigation Measure 7.8-1 as well as compliance with well permitting requirements under the Kern County Environmental Health Program. Mitigation Measure 7.2-2 includes KWBA cooperation with regulatory agencies during cleanup of hazardous waste sites, onsite groundwater monitoring and reporting, and reporting on the status of third-party remediation to the Kern Fan Monitoring Committee. Mitigation Measure 7.2-3 requires KWBA to identify all plugged and abandoned wells through contacts with appropriate agencies such as DOGGR, and to conduct excavation and grading activities such that the near surface seals and wellhead of identified well remain undamaged. It also requires KWBA to notify the appropriate agencies such as

DOGGR or CVRWQCB if any damage to these wells facilities occurs along with plans to repair the damage. Mitigation Measure 7.8-1(a) requires compliance with NPDES permit requirements, which include preparation of a site-specific SWPPP and implementation of BMPs specifically designed to control erosion and reduce the transport of sediment and other pollutants. Mitigation Measure 7.8-1(b) requires compliance with measures in the KWB HCP/NCCP Vegetation Management Plan (Draft REIR Appendix 7-7c) that are specified for sediment removal and erosion control. Mitigation Measure 7.11-2 requires implementation of Mitigation Measure 7.11-1, which includes using herbicides on site in accordance with the KWB HCP/NCCP Vegetation Management Plan (which will incorporate by reference any other applicable laws, rules, and regulations regarding the use of pesticides); providing a comprehensive Worker Environmental Awareness Program; and requiring construction contracts to include specific language requiring that contractors comply with applicable State of California hazardous materials management laws and regulations. Mitigation Measure 7.11-1(d) requires compliance with Mitigation Measure 7.8-1.

Implementation of this mitigation will avoid, reduce, and/or minimize the potential for degradation of water quality in the Kern River from ongoing construction, development, and maintenance activities associated with KWB facilities to a less-than-significant level (Draft REIR pages 7.2-66 and 7.2-67).

**IMPACT 7.4-3: Implementation of the KWB activities could potentially affect special-status terrestrial biological resources on the KWB Lands due to changes in land use and management.**

Special-status species are known to exist on KWB Lands. Because KWB Lands are under an HCP/NCCP, KWBA is required to follow specific guidelines to prevent take of special-status species and to enhance and preserve the natural habitat currently present. Under the conditions of the KWB HCP/NCCP, KWBA is required to prepare annual reports summarizing activities within KWB Lands including updates on the water supply management and related activities; any amendments to the HCP/NCCP; a summary of any take occurrences; land and habitat management and mitigation measures; monitoring programs and studies; mitigation measures and cooperation with wildlife agencies; and the status of conservation credits. An independent study regarding the impacts related to the transfer, development, and operation of the KWB in light of the Kern Environmental Permits, documented that the KWB is operating as intended and within the confines of the KWB HCP/NCCP. The KWB HCP/NCCP requires that KWB activities continue to follow the KWB HCP/NCCP requirements for 75 years from 1997.

It is expected that the implementation of the mitigation measures and the KWB HCP/NCCP, in particular, will continue to result in a beneficial impact on terrestrial biological resources from KWB activities. While minimal incidental take has occurred since the creation of the KWB, it is possible that KWB activities could result in take during construction, operation, and maintenance, through collapsed burrows, road kills, crushing by grading equipment, harassment, habitat loss, drowning, etc. Special-status plants could also be adversely affected during future KWB construction of new facilities and continued operation and maintenance. Therefore, the impact of KWB activities with regard to terrestrial biological resources could be potentially significant.

**Mitigation Measure 7.4-3:** KWBA is legally required to follow specific mitigation measures described in the Draft REIR on pages 7.4-19 though 7.4-23 to prevent take of special-status terrestrial biological resources and to enhance and preserve the natural habitat currently present either because they are part of the KWB HCP/NCCP (Draft REIR Appendices 7-7a through 7-7e) or because KWBA committed to carry them out pursuant to the Initial Study and Addendum/Findings and Mitigation Measures (Draft REIR Appendix 7-6a) or 2016 KWBA Resolution (Appendix 7-6b). These mitigation measures include the use of a biological monitor and special construction and on-going practices regarding sensitive species. In addition, the use of a project representative as a liaison between KWBA and the resource agencies will expedite notification regarding any take of a listed species. Mitigation Measure 7.4-3 outlines an avoidance protocol that KWBA is already obligated to employ to further reduce the likelihood of any take of special-status terrestrial wildlife.

Implementation of these mitigation measures will avoid, reduce, and/or minimize potentially significant impacts to these resources associated with changes in land use and management on KWB Lands to a less-than-significant level. (Draft REIR pages 7.4-18 through 7.4-23.)

**Impact 10.1-39: Implementation of KWB activities in combination with regional and local water banking projects could potentially result in cumulatively considerable impacts on special-status terrestrial biological resources.**

Periodic recovery operations result in the intermittent wetting and drying of recharge ponds. This mimics the natural pattern for seasonal wetlands. This is to be expected and fully within the operating parameters set by the KWB HCP/NCCP. While minimal incidental take (temporary relocation of three live Tipton Kangaroo rats in 1995/1996) has occurred since the creation of the KWB, it is possible that KWB activities could result in future take during construction, operation, and maintenance, through collapsed burrows, road kills, crushing by grading equipment, harassment, habitat loss, drowning, and other adverse effects. Special-status plants could also be adversely affected during future KWB construction of new facilities and continued operation and maintenance. Other water banking projects could also result in similar effects on special-status species with the construction of additional groundwater storage facilities. KWB activities could result in a cumulatively considerable incremental contribution to this potentially significant cumulative impact on special-status species. Therefore this impact would be a potentially significant cumulative impact.

**Mitigation Measure 10.1-39:** To reduce Cumulative Impact 10.1-39, Mitigation Measure 10.1-39 will be implemented, which will require implementing Mitigation Measure 7.4-3 (Draft REIR page 10.1-29). Mitigation Measure 7.4-3 has been and will continue to be implemented by KWBA. Mitigation Measure 7.4-3 requires the use of a biological monitor, and implementing special construction activities and ongoing practices that would increase awareness of and education regarding sensitive biological resources. Specific individuals would be designated by KWBA as contact representatives between KWBA, USFWS, and CDFW to oversee compliance with protection measures and expedite notification regarding any take of a listed species.

Implementation of this mitigation will avoid, reduce, and/or minimize the cumulative contribution to potential loss of special-status terrestrial biological resources from ongoing construction, operation, and maintenance activities associated with KWB facilities to a less-than-considerable level. (Draft REIR pages 10.1-28 and 10.1-29.)

**IMPACT 7.8-1: Rates of erosion could potentially be affected by KWB activities.**

Grading would be required to construct proposed facilities, including additional recharge ponds. Construction of the ponds and other improvements would occur on topography that is relatively flat and that would require only minor grading and compaction of soils. Soils on KWB Lands can generally be characterized as being moderately to highly erodible. Construction activities, however, have the potential to cause erosion if not conducted properly. Therefore, the impact of KWB construction activities with regard to soil erosion or topsoil loss could be potentially significant.

**Mitigation Measure 7.8-1:** KWBA is legally required to follow Mitigation Measures 7.8-1(b) and 7.8-1(c) described in the Draft REIR on page 7.8-9 to prevent erosion either because they are part of the KWB HCP/NCCP or because KWBA committed to carry them out pursuant to the Initial Study and Addendum/Findings and Mitigation Measures (Draft REIR Appendix 7-6a) or 2016 KWBA Resolution (Appendix 7-6b). These measures include removal of sediment buildup in canals and recharge ponds, implementing erosion control measures such as riprap for water conveyance structures and control devices, and use of a watering truck to minimize fugitive dust during construction activities. In addition, KWBA will be required to implement Mitigation Measure 7.8-1(a), which requires KWBA to comply with NPDES permit requirements, which include preparation of a site-specific SWPPP and implementation of BMPs specifically designed to control erosion and reduce the transport of sediment and other pollutants.

Implementation of this mitigation will avoid, reduce, and/or minimize the potential for erosion from ongoing construction, development, and maintenance activities associated with KWB facilities to a less-than-significant level. (Draft REIR pages 7.8-8 and 7.8-9.)

**IMPACT 7.11-1: KWB construction activities could potentially expose workers or the public to previously unidentified hazards or hazardous materials.**

The construction of additional recharge ponds would result in ground-disturbing activities that could expose construction workers to residual chemicals associated with past agricultural practices involving the use of rodenticides, pesticides, fungicides, and similar agricultural products on crops and soils. Residues of agricultural chemical products in farmed soils as a result of routine agricultural operations are not typically managed as hazardous waste when used in accordance with adopted laws and regulations. Nonetheless, individuals performing excavation and grading activities would be at a greater risk of exposure to agricultural chemical residues in soil through inhalation of dust from soil movement. Construction of the ponds would also involve the use of heavy equipment that would contain fuels and lubricants. These products contain hazardous compounds, and an accidental release of these materials could injure construction workers, contaminate soil or water, or present a fire/explosion hazard. Also, current land management practices involve

the use of herbicides, which could result in hazards to the environment if not handled properly. Therefore, the impact of KWB activities with regard to exposing workers or the public to previously unidentified hazards or hazardous materials could be potentially significant.

**Mitigation Measure 7.11-1:** KWBA is legally required to follow Mitigation Measure 7.11-1(b) and 7.11-1(c) described in the Draft REIR on page 7.11-28 to prevent exposure to hazardous materials either because KWBA committed to carry them out pursuant to the Initial Study and Addendum/Findings and Mitigation Measures (Draft REIR Appendix 7-6a) or as part of the 2016 KWBA Resolution (Draft REIR Appendix 7-6b). These measures include using herbicides on site in accordance with the KWB HCP/NCCP Vegetation Management Plan (Draft REIR, Appendix 7-7c), which will incorporate by reference any other applicable laws, rules, and regulations regarding the use of pesticides, and providing a comprehensive Worker Environmental Awareness Program. In addition, KWBA will be required to implement Mitigation Measures 7.11-1(a) and 7.11-1(d). These measures require construction contracts to include specific language requiring that contractors comply with applicable Statewide hazardous materials management laws and regulations and compliance with Mitigation Measures 7.8-1. Mitigation Measure 7.8-1(a) requires compliance with NPDES permit requirements, which include preparation of a site-specific SWPPP and implementation of BMPs specifically designed to control erosion and reduce the transport of sediment and other pollutants. Mitigation Measure 7.8-1(b) requires compliance with measures in the KWB HCP/NCCP Vegetation Management Plan that are specified for sediment removal and erosion control.

Implementation of this mitigation will avoid, reduce, and/or minimize the potential for human and environmental exposure to previously unidentified hazardous materials from ongoing construction, development, and maintenance activities associated with KWB facilities to a less-than-significant level. (Draft REIR pages 7.11-28 and 7.11-29.)

**IMPACT 7.11-2: KWB activities could create a hazard to the public or environment through accidental release of hazardous materials or through routine transport, use, or disposal of hazardous materials.**

Future routine activities of the KWB may require maintenance of ponds, canals, and infrastructure, including periodic earthwork operations for berm maintenance, soil permeability enhancement, and removal of vegetative growth. Routine operations also include such activities as water quality monitoring and security inspections at specified intervals. These activities would involve field equipment and vehicles which require the use, transport, and disposal of hazardous materials, including petroleum-based fuels and lubricants. The KWB HCP/NCCP requires KWBA's application of pesticides to comply with California Department of Public Health (CDPR) regulations with regards to recharge basins and proximity to wellheads. Although regulations exist to prevent accidental release of hazardous materials, KWB construction activities could still result in an accidental release of hazards or hazardous materials, which could be potentially significant.

**Mitigation Measure 7.11-2:** To mitigate Impact 7.11-2, the measures described in Mitigation Measure 7.11-1 (Draft REIR page 7.11-30) will be implemented. These measures require including specific language in construction contracts for contractor compliance with

applicable State of California hazardous materials management laws and regulations, using herbicides on site in accordance with the KWB HCP/NCCP Vegetation Management Plan (Draft REIR Appendix 7-7c), which will incorporate by reference any other applicable laws, rules, and regulations regarding the use of pesticides, and providing a comprehensive Worker Environmental Awareness Program. In addition, Mitigation Measure 7.11-1(d) requires compliance with Mitigation Measure 7.8-1. Mitigation Measure 7.8-1(a) requires compliance with NPDES permit requirements, which include preparation of a site-specific SWPPP and implementation of BMPs specifically designed to control erosion and reduce the transport of sediment and other pollutants. Mitigation Measure 7.8-1(b) requires compliance with measures in the KWB HCP/NCCP Vegetation Management Plan that are specified for sediment removal and erosion control.

Implementation of this mitigation will avoid, reduce, and/or minimize the potential for human and environmental exposure to accidental spills and routine transport of hazardous materials from ongoing construction, development, and maintenance activities associated with KWB facilities to a less-than-significant level (Draft REIR page 7.11-30.)

**IMPACT 7.11-4: KWBA activities with regard to accidents and upsets from onsite and adjacent third-party activities on or near KWB Lands could potentially create a significant hazard to the public or environment.**

The 1991 Phase I Environmental Site Assessment determined that the Grayson Services, Inc. site, which was operated by a third party on KWB Lands, did not pose an immediate threat to KWB groundwater recharge or extraction operations. KWBA workers could potentially be exposed to hazardous wastes in the three basins proposed on the Grayson site. However, since neither the concentration of constituents nor the extent of any potential releases addressed in the 1991 Phase I Environmental Assessment has been characterized, the degree of potential adverse impacts to KWB Lands from these basins is unknown at this time. Therefore, the impact of KWB activities with regard to accidents and upsets from onsite and adjacent third-party activities could be potentially significant.

**Mitigation Measure 7.11-4:** KWBA is legally required to follow Mitigation Measures 7.11-4(b) and 7.11-4(c) described in the Draft REIR on pages 7.11-34 and 7.1-35 to prevent exposure to hazardous materials because KWBA committed to carry them out pursuant to the Initial Study and Addendum/Findings and Mitigation Measures (Draft REIR Appendix 7-6a) or as part of the 2016 KWBA Resolution (Draft REIR Appendix 7-6b). These measures include monitoring the remediation of current and any future hydrocarbon contamination from third-party oil and gas activities; retaining a qualified environmental professional to conduct a Phase II Environmental Site Assessment if stained or odorous soils are encountered during construction; and notifying the appropriate federal, state, and local agencies if evidence of previously undiscovered soil or groundwater contamination or if unknown or previously undiscovered underground storage tanks are encountered during construction activities. In addition, KWBA will be required to implement Mitigation Measures 7.11-4(a) and 7.11-4(d). These measures require implementation of Mitigation Measure 7.11-1, which includes using herbicides on site in accordance with the KWB HCP/NCCP Vegetation Management Plan (Draft REIR Appendix 7-7c), which will incorporate by reference any other applicable laws, rules, and regulations regarding the use of pesticides; providing a comprehensive Worker Environmental Awareness Program; and requiring

construction contracts to include specific language requiring that contractors comply with applicable State of California hazardous materials management laws and regulations. Mitigation Measure 7.11-1(d) requires compliance with Mitigation Measure 7.8-1. Mitigation Measure 7.8-1(a) requires compliance with NPDES permit requirements, which include preparation of a site-specific SWPPP and implementation of BMPs specifically designed to control erosion and reduce the transport of sediment and other pollutants. Mitigation Measure 7.8-1(b) requires compliance with measures in the KWB HCP/NCCP Vegetation Management Plan that are specified for sediment removal and erosion control.

Implementation of this mitigation will avoid, reduce, and/or minimize the potential for human and environmental exposure to hazardous materials from third-party activities on KWB Lands to a less-than-significant level (Draft REIR pages 7.11-33 through 7.11-35).

**IMPACT 7.11-6: KWB activities could increase airborne vector populations or the likelihood of waterborne disease or illness.**

Mosquitoes are common within KWB Lands due to the abundance of standing water in the existing recharge ponds. In addition, the proposed future recharge basins would lead to increased surface areas of standing water that may increase the areas for vectors to gather and provide a breeding ground for mosquito larvae. KWB Lands are located in the San Joaquin Valley where Valley Fever is known to exist. Valley Fever is an infection that results from inhalation of spores of the fungus *Coccidioides immitis*. Earth-moving activities during construction or maintenance of KWB facilities could cause these fungal spores to become airborne and therefore present a human health hazard. Therefore, the impact of KWB activities with regard to airborne vector populations or the likelihood of waterborne disease or illness could be potentially significant.

**Mitigation Measure 7.11-6:** KWBA is legally required to follow Mitigation Measure 7.11-6(b) described in the Draft REIR on page 7.11-37 to reduce exposure to vector-borne diseases because KWBA committed to carry it out pursuant to the Initial Study and Addendum/Findings and Mitigation Measures (Draft REIR Appendix 7-6a). This measure includes implementation of a Mosquito Abatement Plan, which requires KWBA to notify staff of the Kern and Westside Mosquito Abatement Districts (District) of planned use of recharge basins, maintain KWB roads in good condition to allow District access, and assist District staff in adaptive mosquito abatement planning. In addition, KWBA will be required to implement Mitigation Measure 7.11-6(a), which requires implementation of Mitigation Measure 7.11-1(c), which includes a comprehensive Worker Environmental Awareness Program to ensure that all construction workers at risk of inhaling dust are provided masks with filters designed to trap spores of the size of Valley Fever fungus.

Implementation of this mitigation will avoid, reduce, and/or minimize the potential for human health risks from exposure to airborne vectors or waterborne diseases from construction and maintenance activities on KWB Lands to a less-than-significant level. (Draft REIR pages 7.11-36 and 7.11-37.)

**IMPACT 10.1-58: Implementation of KWB activities in combination with regional and local water banking projects could potentially result in cumulatively considerable increases in airborne vector populations or in the likelihood of waterborne disease or illness.**

KWB activities on KWB Lands and cumulative water banking projects near KWB Lands include construction and operation of recharge ponds by KWBA, Rosedale, and others. The construction of recharge ponds may disturb the soil and cause Valley Fever fungal spores to become airborne during earthmoving activities. The recharge basins can lead to standing pools of water and may increase areas for vectors to gather and provide a breeding ground for mosquito larvae. The cumulative effect of additional and/or expanded nearby groundwater banking programs, in association with KWB expansion, could result in greater exposure to mosquitoes and Valley Fever. The KWB activities could have a cumulatively considerable incremental contribution to increased airborne vector populations or the likelihood of waterborne disease or illness, which would be a potentially significant cumulative impact.

**Mitigation Measure 10.1-58:** To reduce Cumulative Impact 10.1-58, Mitigation Measure 10.1-58 will be implemented, which will require implementing Mitigation Measure 7.11-6 (Draft REIR page 10.1-42). Mitigation Measure 7.11-6 includes implementation of a Mosquito Abatement Plan, which requires KWBA to notify District staff of planned use of recharge basins, maintain KWB roads in good condition to allow District access, and assist District staff in adaptive mosquito abatement planning. Mitigation Measure 7.11-6 incorporates Mitigation Measure 7.11-1(c), which includes a comprehensive Worker Environmental Awareness Program to ensure that all construction workers at risk of inhaling dust are provided masks with filters designed to trap spores of the size of Valley Fever fungus.

Implementation of this mitigation will avoid, reduce, and/or minimize the cumulative contribution to potential human health risks from exposure to airborne vectors or waterborne diseases from construction and maintenance activities on KWB Lands to a less-than-considerable level. (Draft REIR page 10.1-42.)

**IMPACT 7.13-1: KWB activities could potentially result in damage and/or destruction of cultural and paleontological resources.**

Archaeological investigations have been conducted in the Kern Fan Element and for the KWB HCP/NCCP; some of these investigations recorded significant archaeological sites at or near KWB Lands. As a consequence of KWB activities, approximately 1,052 acres of land would be converted to recharge ponds and three wells constructed in the future. Construction of recharge ponds and associated berms could expose cultural resources to damage and/or destruction. Well depths on KWB Lands range from 300 to 1,400 feet bgs, and therefore well drilling and refurbishing activities associated with groundwater recharge, extraction, and monitoring may occur in Older Alluvium, Older Stream and Terrace Deposits, and the Tulare Formation, which are considered paleontologically sensitive. Therefore, the impact of KWB activities with regard to cultural resources and unique paleontological resources could be potentially significant.

**Mitigation Measure 7.13-1.** KWBA is legally required to follow specific mitigation measures described in the Draft REIR on pages 7.13-16 through 7.13-18 to prevent adverse impacts to cultural and paleontological resources because KWBA committed to carry them out pursuant to the 2016 KWBA Resolution (Draft REIR Appendix 7-6b). Mitigation Measure 7.13-1(a) requires that prior to ground disturbing work on KWB Lands, qualified professionals conduct a survey, provide pre-construction training to workers involved with earthmoving activities, stake culturally sensitive areas and associated buffer lands prior to the start of ground-disturbing activities, and invite local Native American Tribal representatives to be present during ground-disturbing activities along with the qualified archaeological monitor. During ground-disturbing activities, KWBA's archaeological monitor must record and evaluate any impacts on cultural resources, and KWBA must mitigate the impacts on any cultural resources identified pursuant to Section 106 of the National Historic Preservation Act. This would ensure that important scientific information that could be provided by these resources regarding history or prehistory is not lost. KWBA is also required to conduct the appropriate examination, treatment, and protection of any human remains consistent with State law. Mitigation Measure 7.13-1(b) requires that prior to the start of any well drilling activities, training regarding paleontological resources must be provided to workers involved with ground-disturbing activities, and that if unique paleontological resources are encountered, a qualified paleontologist must prepare an excavation plan in accordance with Society of Vertebrate Paleontology Guidelines. These measures would ensure that important scientific information that could be provided by these resources regarding cultural or paleontological resources is not lost.

Implementation of this mitigation will avoid, reduce and/or minimize potential damage and/or destruction of cultural and paleontological resources associated with construction and maintenance of groundwater bank facilities on KWB Lands to a less-than-significant level. (Draft REIR pages 7.13-15through 7.13-18.)

**IMPACT 10.1-61: Implementation of KWB activities in combination with regional and local water banking and development projects could potentially result in cumulatively considerable impacts related to the damage to and/or destruction of cultural and paleontological resources.**

Native Americans, specifically the Southern Valley Yokuts, occupied the southern portion of the San Joaquin Valley in Kern and Kings Counties; prehistoric sites have been recorded on KWB Lands and additional archaeological sites could be present on KWB Lands. KWB activities involve construction of additional recharge basins, wells, and ancillary facilities on KWB Lands that could expose cultural and paleontological resources to damage and/or destruction. Construction of cumulative water banking and development projects could increase the risk of damage to or destruction of known or previously unidentified cultural and paleontological resources. Therefore, KWB construction activities could make a cumulative considerable incremental contribution to an overall significant cumulative impact with respect to cultural and paleontological resources, which would be a potentially significant cumulative impact.

**Mitigation Measure 10.1-61:** To reduce Cumulative Impact 10.1-61, Mitigation Measure 10.1-61 will be implemented, which will require implementing Mitigation Measure 7.13-1 (Draft REIR page 10.1-45). Mitigation Measure 7.13-1(a) requires that prior to ground-

disturbing work on KWB Lands, qualified professionals conduct a survey, provide pre-construction training to workers involved with earthmoving activities, stake culturally sensitive areas and associated buffer lands prior to the start of ground-disturbing activities, and invite local Native American Tribal representatives to be present during ground-disturbing activities along with the qualified archaeological monitor. During ground-disturbing activities, KWBA's archaeological monitor must record and evaluate any impacts on cultural resources, and KWBA must mitigate the impacts on any cultural resources identified pursuant to Section 106 of the National Historic Preservation Act. KWBA is also required to conduct the appropriate examination, treatment, and protection of any human remains consistent with State law. Mitigation Measure 7.13-1(b) requires that prior to the start of any well drilling activities, training regarding paleontological resources must be provided to workers involved with ground-disturbing activities, and if unique paleontological resources are encountered, a qualified paleontologist must prepare an excavation plan in accordance with Society of Vertebrate Paleontology Guidelines. These measures would ensure that important scientific information that could be provided by these resources regarding cultural or paleontological resources is not lost.

Implementation of this mitigation will avoid, reduce, and/or minimize the cumulative contribution to potential damage and/or destruction of cultural and paleontological resources associated with construction and maintenance of groundwater bank facilities on KWB Lands to a less-than-considerable level. (Draft REIR pages 10.1-44 and 10.1-45.)

**IMPACT 7.16-2: KWB activities could potentially develop land uses and patterns that cause substantial wasteful, inefficient, and unnecessary consumption of energy that would result in an increased demand for energy.**

With respect to KWB operations and maintenance (O&M) activities, KWB activities would continue to use a similar amount of electrical energy as they have in the past. However, KWB's energy provider (Pacific Gas & Electric Company) would continue increasing its renewable energy portfolio to meet its 2020 and 2030 Renewable Portfolio Standard (RPS) requirements and, as of April 2016, is continuing to administer the Advanced Pump Efficiency Program (APEP), which assists in KWBA's pump rehabilitation, retrofit, and replacement actions. KWBA has historically and currently performs pump efficiency actions to monitor and maintain pumps at optimal working conditions; there is no formal mechanism to require these pump efficiency actions that minimize energy consumption. Therefore KWB O&M activities could be potentially significant with regard to energy consumption.

**Mitigation Measure 7.16-2:** To reduce Impact 7.16-2, the measures described in Mitigation Measure 7.16-2 (Draft REIR page 7.16-7) will be implemented. Mitigation Measure 7.16-2 requires implementation of Mitigation Measure 12-1 (see Draft REIR pages 12-13 through 12-15). These measures require that KWBA implement a formal Pump System Energy Efficiency Plan (PSEEP) which would ensure that O&M activities are consistent with the AB 32 Scoping Plan's Measure W-3. In addition, as new recharge ponds, water pumps, and conveyance infrastructures are installed in the future, procurements would be required to meet the most currently applicable pump efficiency standards. Similarly, as older water pumps and conveyance infrastructures are replaced through passive turnover (not required in the PSEEP), O&M activities would increase in energy efficiency.

Implementation of this mitigation will avoid, reduce, and/or minimize the potential for inefficient consumption of energy from construction, operational, and maintenance activities on KWB Lands to a less-than-significant level (Draft REIR page 7.16-7).

**IMPACT 10.1-66: Implementation of KWB activities in combination with regional and local water banking, development, and capital improvement projects could develop land uses and patterns that cause cumulatively considerable impacts associated with the wasteful, inefficient, and unnecessary consumption of energy.**

KWBA's O&M activities would not consume energy in a more inefficient, wasteful, or unnecessary fashion than other similar O&M activities in the region. KWBA has historically and currently performs pump efficiency actions to monitor and maintain pumps at optimal working conditions; however, there is no formal mechanism to require these pump efficiency actions that minimize energy consumption. Therefore, consistency with AB 32 Scoping Plan Measure W-3 (Water System Energy Efficiency) cannot be tracked as part of an official plan or program approved by the KWBA Board of Directors. Furthermore, other groundwater banking programs may or may not minimize energy consumption to the same level as KWBA. Without a formal pump efficiency plan, KWBA O&M activities might result in a cumulatively considerable incremental contribution to a significant cumulative impact with respect to energy consumption. This impact would be a potentially significant cumulative impact.

**Mitigation Measure 10.1-66:** To reduce Cumulative Impact 10.1-66, Mitigation Measure 10.1-66 will be implemented, which will require implementing Mitigation Measure 12-1 (Draft REIR page 10.1-48). This measure requires a formal PSEEP to ensure that O&M activities are efficient. In addition, as new recharge ponds, water pumps, and conveyance infrastructures are installed in the future, procurements would be required to meet the most currently applicable pump efficiency standards as required in Mitigation Measure 12-1. Similarly, as older water pumps and conveyance infrastructures are replaced through passive turnover (not required in the PSEEP), O&M activities would increase in energy efficiency. Therefore, it is anticipated that the energy efficiency of future O&M activities would gradually increase with time.

Implementation of this mitigation will avoid, reduce, and/or minimize the cumulative contribution of construction, operational, and maintenance activities on KWB Lands to inefficient consumption of energy to a less-than-considerable level. (Draft REIR pages 10.1-47 and 10.1-48.)

**IMPACT 12-1: KWB construction and operations/maintenance would generate GHG emissions that could potentially make a considerable contribution to a significant cumulative effect on climate change.**

KWBA's recovery operations utilize electric-powered pumps, which consume electricity. KWBA obtains electricity from PG&E, which generates greenhouse gas emissions to produce the electricity consumed by KWBA's operations. KWBA performs routine maintenance and monitoring of its pumps for O&M activities. Pumps are prioritized for retrofit, rehabilitation, and replacement as necessary based on monitoring data and current

operations and pumping demands. Although KWB has historically and currently performs pump efficiency actions to monitor and maintain pumps at optimal working conditions, there is no formal mechanism to require these pump efficiency actions. Therefore KWB O&M activities could be potentially significant with regard to GHG emissions.

**Mitigation Measure 12-1:** KWBA is legally required to follow Mitigation Measure 12-1 described in the Draft REIR on pages 12-13 through 12-15 to improve energy efficiency because KWBA committed to carry it out pursuant to the 2016 KWBA Resolution (Draft REIR Appendix 7-6b). This measure requires that KWBA implement a formal PSEEP which would ensure that O&M activities are consistent with the AB 32 Scoping Plan's Measure W-3. In addition, as new recharge ponds, water pumps, and conveyance infrastructures are installed in the future, procurements would be required to meet the most currently applicable pump efficiency standards. Similarly, as older water pumps and conveyance infrastructures are replaced through passive turnover (not required in the PSEEP), O&M activities would increase in energy efficiency.

Implementation of this mitigation will avoid, reduce, and/or minimize KWB's future activities on climate change to a less-than-significant level (Draft REIR pages 12-11 through 12-15).

**IMPACT 10.1-68: Implementation of KWB activities in combination with regional and local water banking projects could potentially generate cumulatively considerable GHG emissions.**

Although KWBA has historically and currently performs pump efficiency actions to monitor and maintain pumps at optimal working conditions, there is no formal mechanism to require these pump efficiency actions. Therefore, consistency with AB 32 Scoping Plan Measure W-3 (Water System Energy Efficiency) cannot be tracked as part of an official plan or program approved by the KWBA Board of Directors. Thus, without a formal pump efficiency plan, KWBA might not be consistent with the applicable water-related AB 32 Scoping Plan measures (i.e., Measure W-3). Without a formal pump efficiency plan, KWBA O&M activities might result in a cumulatively considerable incremental contribution to a significant cumulative impact with respect to energy consumption. This impact would be a potentially significant cumulative impact.

**Mitigation Measure 10.1-68:** To reduce Cumulative Impact 10.1-68, Mitigation Measure 10.1-68 will be implemented, which will require implementing Mitigation Measure 12-1 (Draft REIR page 10.1-50). This measure requires that KWBA implement a formal PSEEP to ensure that O&M activities are consistent with the AB 32 Scoping Plan's Measure W-3. In addition, as new recharge ponds, water pumps, and conveyance infrastructures are installed in the future, procurements would be required to meet the most currently applicable pump efficiency standards. Similarly, as older water pumps and conveyance infrastructures are replaced through passive turnover (not required in the PSEEP), O&M activities would increase in energy efficiency.

Implementation of this mitigation will avoid, reduce, and/or minimize the cumulative contribution of KWB's future activities on climate change to a less-than-considerable level. (Draft REIR pages 12-11 through 12-15.)

**FINDINGS:** With regard to Impacts 7.1-2, 7.1-7, 7.2-1, 7.2-2, 7.2-3, 7.2-6, 7.4-3, 7.8-1, 7.11-1, 7.11-2, 7.11-4, 7.11-6, 7.13-1, 7.16-2, 12-1, 10.1-24, 10.1-25, 10.1-28, 10.1-29, 10.1-30, 10.1-39, 10.1-58, 10.1-61, 10.1-66, and 10.1-68, the Department finds that changes or alterations which avoid or substantially lessen the significant environmental effects identified in the Final REIR for these impacts are within the responsibility and jurisdiction of KWBA, and not the Department, and such changes or alterations have been adopted by KWBA, as described in each mitigation measure.

## PART I.B

## POTENTIALLY SIGNIFICANT IMPACTS THAT CANNOT BE REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL BY MITIGATION MEASURES INCORPORATED INTO THE PROPOSED PROJECT

### 1. Growth-Inducing Impacts

The REIR does not assume that growth inducement is necessarily beneficial, detrimental, or of little significance to the environment. The potential impacts and available mitigation measures that could arise from growth-inducement from KWB activities are discussed in Chapter 8 of the Draft REIR. Growth-inducing impacts from KWB activities discussed in the Draft REIR are supplemental to and consistent with the growth-inducing impacts discussed in Chapter 8 in both the 2010 Monterey Plus Draft and Final EIRs.

KWB activities do not involve construction of new housing and would not substantially expand or establish new employment opportunities that, in turn, would generate housing development. Nor would KWB activities provide water supply infrastructure to a previously undeveloped or underserved region.

It is unclear whether in certain areas increased reliability of water supply eliminates an obstacle to growth. Increased reliability of water supply would not improve infrastructure capacity or remove a regulatory constraint that had previously limited growth in the municipal contractor’s service areas. However, it is possible that uncertainty in water supplies could, in and of itself, be considered an obstacle to growth because planners might have limited growth (urbanization) based on water supply availability.

Although a project may have growth-inducing potential, it may not result in growth. Neither the Department nor KWBA make decisions with regard to where and how growth should occur. Decisions regarding growth policy are made through the general planning process at regional and local levels. However, growth is ultimately controlled by decisions made with respect to individual development proposals at the local level by cities and counties. Availability of water is only one of many factors that land use planning agencies consider when making decisions about growth.

**Impacts and Mitigation Measures:** The Draft REIR concluded that neither the Department nor KWBA have authority or control over local planning decisions and that local decision-making agencies are the appropriate entities to make CEQA evaluations at the local level. Neither the Department nor KWBA have the authority to control land use decisions involving

private activities or to oversee land use regulation by cities and counties. (Draft REIR pages 8-7; 10.1-52.)

However, the Draft REIR identified, in general terms, potential impacts and mitigation measures that could result from local development decisions to accommodate population increases. The types of impacts and mitigation measures are common to urban development projects. Such impacts include conversion of agricultural and wildlife habitat areas to urban uses, altered landform and drainage patterns, increased storm runoff, decrease in groundwater recharge, increased use of hazardous materials and increased traffic, noise levels, air pollution emissions, generation of sanitary waste water and solid waste and demand for local services. Mitigation measures include locating the growth in areas where sensitive resources are absent, minimizing the loss of resources, or replacing the loss. In addition federal, State and local governments implement numerous mitigation strategies for specific project impacts such as best management practices to minimize water quality and air emission impacts. Depending on the particular project and the mitigation measures adopted, some of these impacts may be potentially significant and unavoidable. (Draft REIR pages 8-2 and 8-3; 10.1-51 and 10.1-52.)

Because the KWB stores water supplies for the Tejon Industrial Complex area and the Tejon Mountain Village, KWB activities potentially contribute to the significant and unavoidable impacts identified for those projects. For the Tejon Industrial Complex, the significant and unavoidable impacts were to aesthetics, air quality and climate change, public services, agricultural resources, and noise. For the Tejon Mountain Village, the identified significant and unavoidable impacts were to aesthetics/light and glare, air quality and climate change, biological resources, hazards and hazardous materials, noise, population and housing, and transportation and traffic. (Draft REIR pages 8-5 and 8-6; 10.1-51.)

Two KWB participants deliver water for municipal and industrial (M&I) uses: Improvement District No. 4 (ID4) and the KCWA Member Unit of the Tejon-Castac Water District (TCWD). The stored water supply that is made available as a result of the KWB contributes to meeting the needs of ID4 and TCWD. In both cases, the KWB stored water is one of several water sources relied upon by these two water suppliers as well as other water management options (i.e., reclaimed water). Participation in the KWB provides greater flexibility for these water suppliers, allowing them to use surface water when it is available and bank water to use in dry years. The KWB is designed to store water for later use by participants in Kern and Kings Counties. It is therefore expected that most KWB recovered water will remain within Kern and Kings Counties as it has in the past. However, some of the water may be used outside Kern and Kings Counties (e.g., in 2011 the Irvine Ranch Water District obtained participation rights in the KWB through the Dudley Ridge Water District [DRWD] as a result of a land purchase in DRWD's service area).

While an adequate water supply alone does not cause growth, it is a public service that supports growth. Other important factors influencing growth include: economic factors (such as employment opportunities); capacity of public services and infrastructure (e.g., wastewater, public schools, roadways); local land use policies; and land use constraints such as floodplains, sensitive habitat areas, and seismic risk zones.

Development projects that rely upon KWB recovered water, along with other water supplies, have been found to result in significant and unavoidable impacts as summarized above.

Therefore, it is possible that KWB activities contribute to the significant and unavoidable impacts identified for those projects. The Department and KWBA lack the authority to approve or deny development projects or to impose mitigation to address significant environmental impacts associated with development projects; that authority resides with local cities and counties.

Cities and counties in the service areas affected by the increased population are responsible for considering the environmental effects of their growth and land use planning decisions. Availability of water is only one of many factors that land use planning agencies consider when making decisions about growth. Identifying water demands and available sources to meet those demands is now something that urban water suppliers must do in the Urban Water Management Plans and that cities and counties must do in water supply assessments required for projects above a certain size. When new developments are proposed, the cities and counties prepare environmental documents pursuant to CEQA. In addition, numerous federal, state, regional, and local agencies are specifically charged with protecting environmental resources, and ensuring that planned development occurs in a sustainable manner. Together, these agencies exercise the authority to reduce the effects of development on the environment. Where appropriate, they must consider feasible mitigation measures, feasible alternatives, and statements of overriding considerations. (Draft REIR pages 8-13 and 8-14.)

**ALTERNATIVES:** Alternatives NPA1, CNPA3, and CNPA4 would avoid these potential growth-inducing impacts because they do not include implementation of the proposed project. However, they do not meet key project objectives. Findings explaining why specific economic, legal, social, technological, or other considerations make project alternatives identified in the Monterey Plus EIR infeasible are provided in Part II of the Monterey Plus EIR findings.

**FINDINGS:** With regard to potential growth-inducing impacts, the Department finds that changes or alterations which avoid or substantially lessen the significant environmental effect as identified in the Draft REIR with regard to these impacts are within the responsibility and jurisdiction of another public agency and not the Department. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

## PART II

## FINDINGS REGARDING ALTERNATIVES TO THE PROJECT

As stated in the foregoing, the proposed project analyzed in the Monterey Plus EIR was the Monterey Amendment and the Settlement Agreement. The Monterey Plus EIR considered five “elements” of the Monterey Amendment, including “Transfer of property known as the “‘Kern Fan Element property’” in Kern County.” These findings for the REIR address the description of the Kern Fan Element property transfer as changed in the Draft REIR on page ES-4 as follows:

- Transfer of property known as the “Kern Fan Element property” in Kern County and its development and continued use and operation as a locally

owned and operated groundwater banking and recovery project (KWB activities).

These findings for the REIR do not make any changes to - and do not supersede - the previous findings adopted for the Monterey Plus EIR. Because of the change to the project description, however, and in an effort to contain the findings in one location, DWR is restating here the Monterey Plus EIR findings.

CEQA Guidelines Section 15126.6 states:

(a) Alternatives to the Proposed Project: An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives....

In addition, CEQA Guidelines Subsection 15091(a) (3) states that one of the findings an agency can make regarding significant environmental effects identified in the final EIR is that "[S]pecific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR." Subsections 15091(c) and (d) state that a finding made pursuant to subsection 15091(a)(3) must be supported by substantial evidence and the finding shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.
The findings in Monterey Plus EIR findings Part I.B and REIR findings Part I.B identified those impacts that are potentially significant and unavoidable even after the implementation of feasible mitigation measures. The reasons for rejecting identified mitigation measures as infeasible are discussed under each Impact heading in Section I.B. For certain impacts, those findings identified alternatives that could reduce the impacts to a less-than-significant level, but found that the alternatives were not feasible because they did not meet key project objectives. This section provides additional detail and findings supporting those findings.

**Proposed Project:** The proposed project is the Monterey Amendment and the Settlement Agreement. (Monterey Plus DEIR Sections 4.4 and 4.5, and Monterey Plus REIR Section 4.1.)

The Monterey Amendment has a number of provisions, including:

- changes in the procedures for allocation of Table A water and surplus water among the SWP contractors;
- permanent transfers of 130,000 acre feet and retirement of 45,000 acre feet of SWP long-term water supply contracts' Table A amounts;
- transfer of the Kern Fan Element property in Kern County, and its development and continued use and operation as a locally owned and operated groundwater banking and recovery project (KWB activities); and
- restructured rates.

The Settlement Agreement has a number of provisions, including:

- establishing a process for involving plaintiffs and SWP contractors in development of a new EIR;
- better communication of SWP water reliability information;
- greater public review of major SWP actions;
- recognition of certain permanent Table A transfers;
- assurances regarding Kern Fan Element Lands;
- funding to Plumas County for watershed restoration and other purposes;
- changes to Plumas County's long-term water supply contract; and
- funding to plaintiffs for multiple purposes, including watershed restoration.

**Project Objectives:** The overall objective of the proposed project is to resolve the underlying issues that led to the Monterey Amendment and to implement the Settlement Agreement. (Monterey Plus DEIR Section 4.3.)

The fundamental purpose of the Monterey Amendment is to resolve conflicts and disputes between and among the urban and agricultural SWP contractors and the Department about water allocation and related issues pertaining to the management and financing of the SWP. (Monterey Plus FEIR Subsection 5.2.1.2.) The Monterey Plus DEIR identified five specific objectives of the Monterey Amendment. (Monterey Plus DEIR Section 4.3.1.) These are:

- restructuring and clarifying procedures for SWP water allocation and delivery during times of shortage and surplus;
- reducing financial pressures on agricultural contractors in times of drought and supply shortages;
- adjusting the financial rate structure of the SWP to more closely match revenue needs;
- facilitating water management practices and water transfers that improve reliability and flexibility of SWP water supplies in conjunction with local supplies; and
- resolving legal and institutional issues related to storage of SWP water in Kern County groundwater basins and in other areas.

The Monterey Plus DEIR identified five specific objectives of the Settlement Agreement. (Monterey Plus DEIR Section 4.3.2.) These are:

- to communicate SWP supply reliability information to SWP contractors and local planning jurisdictions and clarify related SWP contract language;
- enhance public review of SWP contract amendments and public participation in environmental review;
- provide assurances regarding finality of certain Table A transfers and transfer of title to Kern Fan Element lands and assurances regarding environmental protection of Kern Fan Element lands;
- increase SWP watershed enhancement activities in Plumas County and improve Plumas County's access to SWP water; and

- provide funding to plaintiffs to implement the Settlement Agreement including watershed restoration projects.

**Alternatives and Feasibility:** CEQA *Guidelines* Section 15126.6 provides that an EIR must describe a range of alternatives to the proposed project which could reasonably attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant impacts of the proposed project. The Monterey Plus EIR considered four versions of a no project alternative (NPA1, NPA2, CNPA3 and CNPA4) and a fifth alternative (Alternative 5). Additionally, a number of other potential alternatives suggested by comments were considered for analysis in the EIR and rejected.

The findings below explain why some potential alternatives were not included in the Monterey Plus EIR for discussion, and why the alternatives analyzed in the Monterey Plus EIR are in fact infeasible. The alternatives were rejected as being infeasible for a number of reasons, including that they do not meet some or all of the key project objectives, which are essential to the success of the proposed project in achieving the underlying fundamental purpose of the proposed project. They are therefore undesirable from a policy standpoint based on a reasonable balancing of economic, legal, social, technological and other considerations.

The Department again discusses similar considerations in balancing the benefits of the proposed project against its unavoidable environmental risks in its Statement of Overriding Considerations (Exhibit C). At this stage, CEQA *Guidelines* Subsection 15093(a) provides that if the specific economic, legal, social, technological or other benefits of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered 'acceptable'.

## FINDINGS AND CONCLUSIONS

The Department makes the following findings and determinations with regard to alternatives to the proposed project:

**Scope of EIR:**

The proposed project and objectives in the Monterey Plus EIR are substantially the same as the proposed project and objectives in CCWA's prior EIR on the Monterey Agreement with some changes brought about by the Settlement Agreement. Some of the comments received on the Monterey Plus PEIR related to issues that concern operation of the SWP as a whole or issues outside of SWP operations, including stresses facing the Delta and issues relating to growth and water reliability.

The final Monterey Plus EIR recognized that there were significant concerns regarding operation of the SWP as a whole, stresses facing the Delta, and issues relating to growth and water reliability. To the extent that these issues affect or could be affected by the Monterey Amendment and the Settlement Agreement, they are discussed in the final Monterey Plus EIR. The primary focus of the Monterey Amendment is on how the Department will allocate SWP water and how the contractors may be able to increase the flexibility and reliability of the available SWP water. The Monterey Amendment cannot and does not change hydrologic conditions or regulatory requirements in effect at the time of

export, and it does not increase Delta exports beyond permitted limits. (Monterey Plus DEIR Sections 6.2 and 6.3 and FEIR Subsections 5.1.2.)

The Department concluded that the Monterey Amendment is not an appropriate tool for implementing changes to attempt to solve broad issues relating to the SWP, protection of the Delta, or water reliability planning in general. There are other established planning, administrative, legislative and regulatory efforts underway that will address these broader concerns in more effective ways and as part of comprehensive statewide processes. The Department is involved in all these processes and is working with the Legislature, the Governor's office and other State and local government forums and the public to deal with such issues. (Monterey Plus DEIR Chapter 11, Monterey Plus FEIR, Subsections 5.2.1.1, 5.2.1.2, 5.2.3.1, and 5.2.3.2.)

**Alternatives proposed in comments considered and rejected:**

Consistent with the requirements of CEQA, the Department used the following factors as screening criteria to determine whether to consider a candidate alternative in detail in the alternatives analysis in the Monterey Plus EIR: it must meet most of the basic objectives of the proposed project; avoid or lessen the proposed project's significant adverse environmental impacts; and be feasible and implementable in a reasonable period of time. The Department considered and rejected a number of alternatives for inclusion in the Monterey Plus EIR for further analysis because they did not meet one or more of the screening criteria.

Some comments stated that the Monterey Plus DEIR should have considered a broader range of alternatives, including increased conservation, recycling and other local water system enhancements; Department-mandated best management practices to reduce urban demand for water; reduced diversions or exports from the Delta; and allocation of water for Delta and fisheries benefits. The Monterey Plus DEIR considered these proposed alternatives, but concluded that the Monterey Amendment was not an appropriate tool for mandating or implementing these types of changes. These suggested changes were rejected as alternatives because they did not meet screening criteria, including achieving most, if any, of project objectives. They are not alternatives to the proposed project, but rather different projects with different objectives designed to address issues related to operation of the SWP as a whole or to address issues only tangentially (or not at all) related to the SWP or the Monterey Amendment.

**No project alternatives (NPA1, NPA2, CNPA3, and CNPA4):**

The no project alternative was defined as the continued operation of the SWP in accordance with the un-amended long-term water supply contracts (pre-Monterey Amendment). The SWP has been operated since 1996 pursuant to long-term water supply contracts that include the Monterey Amendment. Four versions of the no project alternative are examined in the DEIR because there is room for disagreement over how to characterize continued operation of the SWP in accordance with the pre-Monterey long-term water supply contracts. These alternatives are described on pages 11-1 and 11-2 of the Monterey Plus DEIR and include two versions that involve invocation of Article 18(b) as required by the court in *PCL v. DWR*.

Three of the no project alternatives (NPA 1, CNPA3, and CNPA 4) show different possibilities of what might have happened if the Monterey Amendment had not been implemented in 1996. NPA1, CNPA3, and CNPA4 all assume that none of the elements of the proposed project would ever have been implemented (although they all include a state owned but locally operated groundwater storage bank) and examine the impacts of each alternative under those assumptions from 1-996 through 2020. NPA2 analyzes the results of a no project alternative starting from the present, which for purposes of the analysis was fixed at 2003 (the time of the Notice of Preparation). NPA2 therefore assumes that actions completed under the Monterey Amendment from 1996 through 2003 would remain unchanged. NPA2's analysis of the time period 2003 through 2020 leaves in place the transfer of the KFE property as well as pre-2003 Monterey Amendment transfers of Table A amounts and storage outside contractors' service areas in programs in place in 2003.

All of the no project alternatives might meet a part of one or more of the project objectives. NPA1, CNPA3 and CNPA4 all include a state-owned but locally operated groundwater storage bank on the KFE property which might help facilitate water management practices and water transfers that improve reliability and flexibility of SWP supplies in conjunction with local supplies. However, as discussed in FEIR Subsection, 16.2.1 and 16.2.2, uncertainties regarding State use of the KFE property as a groundwater facility ultimately convinced the Department in 1993 to halt feasibility and design work on the project. These uncertainties included proposed revisions of environmental and water quality standards and difficulties in obtaining required local agency approval for development of a State groundwater bank. In addition, these three alternatives would not achieve any of the other objectives of the proposed project. NPA2 includes all the Monterey Amendment actions that took place between 1995 and 2003, but would not include any future actions. Thus, NPA2 would have met all of the objectives of the proposed project in the past and would continue to meet some of those objectives in the future for those actions that would continue. It would not meet any of the objectives with regard to the discontinued actions. This means that flexible storage in Castaic Lake and Lake Perris, extended storage in San Luis Reservoir and the turnback pool would be discontinued. No new or expanded out-of-service area storage programs and no new Monterey Amendment Table A transfers would take place. Water would be allocated in accordance with pre-Monterey Amendment rules and the Settlement Agreement would not take place. Although each of the four no project alternatives would reduce some or all of the potentially significant impacts to a less-than-significant level, the Department finds that none of these alternatives would meet the key project objectives which are essential to the success of the project in achieving the underlying fundamental purpose of the Monterey Amendment, which is to resolve conflicts and disputes between and among the urban and agricultural SWP contractors and the Department about water allocation and related issues pertaining to the management and financing of the SWP. In addition, the no project alternatives would not meet any of the objectives of the Settlement Agreement. Therefore, each of the no project alternatives is rejected as being infeasible for economic, legal, social, technological or other reasons. (Monterey Plus DEIR Sections 11.1.1, 11.4 and 11.7 and Monterey Plus FEIR Subsections 11.2.1, 11.2.2 and 11.2.3.)

**Invocation of Article 18(b) in CNPA3 and CNPA4**

The court in *PCL v. DWR* found that the EIR on the Monterey Agreement was inadequate because it failed to analyze invocation of Article 18(b) of the pre-Monterey contracts as a no-project alternative. Some comments on the Monterey Plus DEIR

suggest that the Department could have invoked Article 18(b) and interpreted Article 21(g)(1) in a way that would have limited or precluded Article 21 deliveries. They stated that this invocation would result in reduced exports that would reduce reliance on SWP water for development purposes, and thus result in less growth and more water for in-Delta uses.

Invocation of Article 18(b) is not part of the proposed project; it is however part of two no project alternatives (CNPA3 and CNPA4). The Department finds that invocation of Article 18(b) would not result in more water remaining in the Delta to become outflow. As stated in the DEIR on page 2-16, the invocation of Article 18(b) would not have altered the amount of water that the Department exported and delivered to the contractors in the many years when more than the minimum SWP yield was available in the SWP system. Instead, the additional water in excess of the reduced Table A deliveries would have been delivered to the contractors under Article 21. The difference between CNPA3 and CNPA4 is how the Article 21 water would have been allocated. (Monterey Plus FEIR Subsection 13.2.2 on the invocation of Article 18(b).)

During the preparation of the Monterey Plus DEIR, the Department reviewed various ways to invoke Article 18(b) including invocation of Article 18(b) with no delivery of Article 21 water to SWP contractors. The invocation of Article 18(b) without Article 21 deliveries was not considered in detail in the Monterey Plus DEIR because the Department concluded that it would not meet any of the objectives of the Monterey Amendment and because it would be in conflict with material terms of the long-term water supply contracts. (See discussion on pages 11-5 and 11-6 in the Monterey Plus DEIR.) The Department also determined, after considerable discussion, that it would not have invoked Article 18(b) in this manner at any time in the past, nor into the near-term future. However, in response to comments, the Department developed an analysis of the effects of operating the SWP with Article 18(b) invoked and with limited or no Article 21 water delivered to SWP contractors. Although the Department believes that Article 18(b) would not have been invoked in this way, nevertheless, this analysis provides additional information to the public and to decision-makers on the effects of not delivering water to SWP contractors that would otherwise be available under Article 21. This analysis is not presented as an alternative or as a modification of any alternatives discussed in the Monterey Plus DEIR, but as clarification of why the Department rejected the approach as an alternative. (See Monterey Plus FEIR Subsection 9.2.5.3.)

### Alternative 5

The Department finds that Alternative 5 is not a feasible alternative for several reasons. First, it does not meet several key project objectives. Alternative 5 deletes Articles 54, 55 and 56 from the Monterey Amendment, which would eliminate all of the provisions of the water supply management practices and consequently would eliminate all of the potentially significant unavoidable impacts of the proposed project except for the Plumas County impacts. It would remove provisions relating to flexible storage provisions at Castaic Lake and Lake Perris, storage in SWP facilities and outside contractors' service areas, the Turnback Pool and transport of non-SWP water. These provisions provide more consistency and greater flexibility in SWP contractors' use of existing SWP storage and conveyance facilities and promote groundwater banking, conjunctive use of local and SWP water sources and earlier and more efficient use of excess allocated Table A water. Eliminating

these provisions significantly diminishes the ability of the project to meet two key objectives – (1) to facilitate water management practices and water transfers that improve reliability and flexibility of SWP water supplies in conjunction with local supplies, and (2) to resolve legal and institutional issues related to storage of SWP water in Kern County groundwater basins and in other areas.

Alternative 5 is also undesirable based on other policy considerations. The Monterey Amendment resulted from a balance of negotiated gains and concessions among the contractors and the Department that required achieving all of the objectives of the Monterey Amendment in order to settle significant disputes among the contractors and the Department.

Both agricultural and M&I contractors gave up rights or benefits to make the Monterey Agreement work. Both had to also gain new rights or benefits or there would have been no reason for them to enter into the Monterey Agreement. Further, there were significant competing interests within the agricultural and urban camps that required additional balancing. The reasons for signing the Monterey Agreement may have been different for each contractor, but each one had to believe that it would benefit from the changes as a whole. Eliminating the water supply management practices would change the balance of benefits for some of the contractors. In approving the Monterey Agreement, the M&I contractors accepted the removal of the provision in the long-term water supply contracts that required that agricultural contractors be subject to the first cutbacks during water shortages provided that the M&I contractors could get improved access to Article 21 water and improved ability to store SWP water. Removing the water management practices, particularly storage outside of the service area and flexible storage, would upset the balance obtained in the Monterey Amendment and affect the M&I and agricultural contractors unevenly. Alternative 5 omits major provisions of the Monterey Amendment that balanced the interests of the agricultural contractors, the municipal contractors and the Department and which would be crucial to some of the contractors.

Although Alternative 5 would reduce some or all of the potentially significant impacts to a less-than-significant level, the Department finds that eliminating the water supply management practices would not meet several key objectives of the proposed project, such as resolving conflicts and disputes between and among the urban and agricultural SWP contractors and the Department about water allocation and related issues pertaining to the management and financing of the SWP. It would also constrain desirable statewide flexibility of water management by the Department and its contractors, introduce uncertainty in the continuation of desirable groundwater banking and conjunctive use of water resources, and remove a mechanism for sharing of water supplies among SWP contractors. In addition it would upset the balance obtained in the Monterey Amendment and affect the M&I and agricultural contractors unevenly.

After considering all these factors and considering the numerous competing and conflicting interests involved, the Department finds that Alternative 5 is infeasible because it does not meet some or all of the key project objectives which are essential to the success of the proposed project in achieving the underlying fundamental purpose of the proposed project and are therefore undesirable from a policy standpoint based on a reasonable balancing of economic, legal, social, technological and other considerations.

**Proposed Project - Monterey Amendment:**

In the preceding discussion on the no project alternatives and Alternative 5, the Department finds that there are no feasible alternatives that would avoid or lessen the potentially significant adverse environmental impacts associated with the Monterey Amendment and still meet enough of the key project objectives to be acceptable choices for implementation. The discussion below expands on those discussions with regard to potential impacts and potentially feasible alternatives for each action of the Monterey Amendment which could result in a potentially significant and unavoidable impact.

The water supply management practices are the only elements of the Monterey Amendment determined to have potentially significant and unavoidable direct impacts. These impacts could occur as a result of the development of groundwater banking facilities in the southern San Joaquin Valley and as a result of the flexible storage provisions relating to Castaic Lake and Lake Perris. The final EIR also found that the growth-inducing impacts of the permanent transfers of Table A water and the water supply management practices could result in potentially significant and unavoidable indirect impacts. In addition, the final REIR found that KWB activities could result in potentially significant and unavoidable growth inducing impacts.

Storage outside a contractor's service area. Storage outside a contractor's service area was found to have potentially significant impacts on terrestrial biological resources and on cultural and paleontological resources. With implementation of Mitigation Measures 7.4-2, 7.13-2, 10.1-3, and 10.1-19, potential impacts to resources in the southern San Joaquin Valley would be reduced to a less-than-significant level.

Implementing these mitigation measures is within the responsibility and jurisdiction of local agencies. Although local agencies have a legal obligation to comply with CEQA and all other applicable laws at the time any further proposed activity takes place, the Department has no jurisdiction over these properties and no jurisdiction over local agency decisions. Since the Department cannot enforce implementation or monitoring of such mitigation measures, the potential impacts on terrestrial biological and on cultural and paleontological resources were found to be potentially significant and unavoidable.

The only alternative that would avoid the potentially significant impacts on these resources in the southern San Joaquin Valley would be to eliminate the possible use of groundwater storage banks outside the KWB Lands. The Department finds that eliminating the use of groundwater storage banks outside of the KWB Lands is not a feasible alternative for reasons which include the following: the existence of groundwater basins in the southern San Joaquin Valley, the need to use areas outside the KWB Lands in order to recharge water into parts of the basin that would not be recharged effectively from the KWB Lands, the benefits to agencies in Kern County that want to make lands available for local storage as well as storing water from outside of their service areas, and the benefits to agencies outside the southern San Joaquin Valley that want to store water in southern San Joaquin Valley.

The Department finds that storage in the southern San Joaquin Valley would provide public water supply benefits throughout the SWP service area and finds that including groundwater banking in the southern San Joaquin Valley is an essential part of the

Monterey Amendment and the overall agreement would not be feasible without this provision.

Furthermore, the Department finds that the potential impacts that would occur in the event that local agencies did not implement the mitigation measures identified in the final EIR are an unlikely but necessary environmental cost of proceeding with the provisions of the water supply management measures regarding storage outside the service area and the Monterey Amendment.

Flexible Storage Provisions: In the unlikely and worst-case scenario, prolonged borrowing of water by eligible contractors from Lake Perris and Castaic Lake allowed by Article 54 of the Monterey Amendment would expose a wide band of barren soil and silt. The final EIR found that this could lead to potentially significant adverse impacts for Castaic Lake on terrestrial biological resources, visual resources, and recreation; and for Lake Perris on terrestrial biological resources, riparian habitat, visual resources, geology and soils (soil erosion), air quality (wind erosion) and recreation.

The final Monterey Plus EIR identified several mitigation measures (7.9-1, 7.13-4, 10.1- 15, and 10.1-20) for some of these impacts. The Department finds that these mitigation measures will partially mitigate the impact; however, the residual impact will remain significant.

The only alternative that would have avoided the potentially significant impacts on these resources at Castaic Lake and Lake Perris would be to eliminate the flexible storage provisions for these reservoirs. The Department finds that eliminating the flexible storage provisions is not a feasible alternative because it would substantially reduce the benefits to the eligible contractors. These benefits were important to the affected contractors as an offset against the loss of water to these contractors resulting from other changes in the Monterey Amendment as a result of the change in allocation during times of shortage. The Department also finds that the worst-case conditions are unlikely and that any resulting impacts will be temporary. The Department finds that flexible storage provisions at Castaic Lake and Lake Perris would provide public water supply benefits throughout much of the southern California part of the SWP service area. The Department also finds that including these provisions was an essential part of the Monterey Amendment and the overall agreement would not be feasible without this provision.

Furthermore, the Department finds that the impacts that would occur in the event that worst-case conditions occurred are an unlikely but necessary environmental cost of proceeding with the provisions of the water supply management measures of Monterey Amendment, including flexible storage.

Growth-inducing impacts: The final Monterey Plus EIR identified, in general terms, potential impacts and mitigation measures that could result from local development decisions to accommodate population increases. The types of impacts and mitigation measures are common to urban development projects and some impacts may be significant and unavoidable.

The final Monterey Plus EIR concluded that the Department does not have authority or control over local planning decisions and that local decision-making agencies are the

appropriate entities to make CEQA evaluations at the local level. The Department does not have the authority to control land use decisions involving private activities or to oversee land use regulation by cities and counties. The potential environmental impact of growth is subject to more detailed environmental review by local decision-makers at the project level when development projects are brought forward. Project level ElRs prepared by local decision-makers are subject to their independent analysis and determinations.

The only alternative available to the Department that would have avoided the potentially significant indirect growth-inducing impacts from the water supply management practices and the permanent transfers of Table A water would be to eliminate these provisions. The Department finds that eliminating these provisions is not a feasible alternative because it would substantially reduce the benefits of the Monterey Amendment to most urban contractors. These benefits were important to the urban contractors as an offset against the loss of water to these contractors resulting from other changes in the Monterey Amendment as a result of the change in allocation during times of shortage.

The only alternative available to the Department that would have avoided the potentially significant growth-inducing impacts from the KWB activities would have been to not transfer the KFE Lands. The Department finds that this is not a feasible alternative because it would substantially reduce the benefits of the Monterey Amendment to a significant portion of the agricultural contractors. These benefits were important to the agricultural contractors as an offset against the loss of water to these contractors resulting from other changes in the Monterey Amendment as a result of the change in allocation during times of shortage and the retirement of 45,000 acre feet of Table A.

In addition, the Department finds that although the Department serves as lead agency for the Monterey Plus EIR and is making the analysis of the growth-inducing impacts known to the public and to other public agencies, practical and legal considerations make it infeasible for the Department to analyze all site-specific impacts and impose limitations on the growth that may result from the availability of the water. The considerations are discussed in Monterey Plus DEIR Section 8.3.3, Monterey Plus FEIR Subsection 8.2.2 (see especially pages 8-10 to 8-12), the REIR Chapter 8, and include the following:

- The Monterey Plus EIR estimates the potential population that could be supported if the proposed project were implemented and identifies potential impacts and mitigation measures that could result from local development decisions to accommodate that population in general terms. The level of detail contained in the Monterey Plus DEIR for growth-inducing impacts and reliability analyses is consistent with the general level of review required for the Monterey Amendment. Even though the Department is aware of or could speculate about a few of the local decisions that may rely on water made available from the proposed project, these decisions require extensive information about local facilities, local water resources and local water use that is not available to the Department. The potential environmental impact of growth is subject to more detailed environmental review at the project level. Project-level EIRs prepared by local decision-makers are subject to an independent determination and disclosure of significant environmental impacts.
- The REIR discusses that the stored water supply that is made available as a result of the KWB contributes to meeting the needs of KWB participants ID4 and

TCWD, as well as the Irvine Ranch Water District through its ownership of land in the Dudley Ridge Water District's service area. The impacts of growth in ID4 and TCWD service areas have been analyzed in the City of Bakersfield and Kern County General Plan EIRs, respectively, and the relationship between growth and water supplies has been analyzed in applicable UWMPs and water supply assessments. When new developments are proposed within the City of Bakersfield and Kern County, the City and County prepare project-level environmental documents pursuant to CEQA. Three key EIRs have concluded that urban projects that relied on several water sources including KWB recovered water would have significant and unavoidable impacts related to growth, as summarized in Section 8.1.2.3. Growth in an area outside of the KWB participants' service area (such as with IRWD) would be similarly analyzed and mitigated by local planning authorities before it occurs. It is possible that KWB activities contribute to the significant and unavoidable impacts identified for those projects.

- The Department does not have the authority to control land use decisions involving private activities or to oversee land use regulation by cities and counties. Even if the Department had the authority to make such decisions at this level of detail, it is not practicable for the Department to analyze each individual decision made by local government that might rely upon increases in SWP water from the proposed project and then to monitor or second guess each individual decision made by local government or to establish general rules that would govern these decisions. The Department rejects the idea that it should use its management of the SWP to manage or block future economic growth including housing that would serve the State's growing population. These decisions are within the authority and control of and properly deferred to local decision-makers where specific projects can be more fully described and are amenable to detailed analysis. This approach is consistent with the traditional legislative policy that fundamental decisions regarding land use and growth are made through the general planning process at regional and local levels. The Department's role in water reliability planning includes the issuance of the SWP Delivery Reliability Report every two years which informs local decision-makers of water supply limitations of SWP water and is discussed in Monterey Plus FEIR Subsection 9.2.6.
- Although the Department does not have statutory authorization to establish mandatory requirements regarding water reliability and growth, it supports local and regional water planning and conservation efforts through statewide planning and through grants and local assistance programs. Demand reduction and water conservation strategies are important tools in water management planning and the Department is involved in a number of legislative and administrative actions designed to provide a regional or statewide approach to these strategies. (See Monterey Plus DEIR pages 11-5 through 11-7.) The Department is taking a leadership role and is actively involved in many of these efforts. See Monterey Plus FEIR Subsection 5.2.3.2 for a discussion of the relationship of the proposed project to other water policy actions dealing with water supply reliability and growth, water conservation, and Delta protection. Such measures are not alternatives to the Monterey Amendment and implementation of such measures would not be affected by the Monterey Amendment. (See Monterey Plus FEIR Subsection 11.2.4.)

**Proposed Project - Settlement Agreement:**

In the preceding discussion on the no project alternatives and Alternative 5, the Department finds that there are no feasible alternatives that would avoid or lessen the potentially significant adverse environmental impacts associated with the Settlement Agreement and still meet enough of the project objectives to be acceptable choices for implementation. The discussion below expands on those discussions with regard to potential impacts and potentially feasible alternatives for each action of the Settlement Agreement which could result in a potentially significant and unavoidable impact.

The watershed improvement program for Plumas County is the only element of the Settlement Agreement determined to have potentially significant unavoidable adverse environmental impacts, which were short-term cultural and paleontological impacts. With implementation of Monterey Plus Mitigation Measures 7.13-6 and 10.1-20, impacts to cultural and paleontological resources in Plumas County would be reduced to a less than-significant level. Implementing these mitigation measures is within the responsibility and jurisdiction of local agencies in Plumas County.

Although local agencies have a legal obligation to comply with CEQA and all other applicable laws at the time any further proposed activity takes place, the Department has no jurisdiction over these properties and no jurisdiction over local agency decisions. Since the Department cannot enforce implementation or monitoring of such mitigation measures, the potential short-term impacts on cultural and paleontological resources were found to be potentially significant and unavoidable.

The only alternative that would avoid the potential impacts of the watershed improvement program is elimination of the watershed improvement program entirely. The Department finds that it is not feasible to eliminate the program because it is a material term of the Settlement Agreement and a critical element of obtaining the plaintiffs' consent to the Settlement Agreement. Accordingly, the Department finds that the potential impacts that would occur in the event that Plumas County did not implement Monterey Plus Mitigation Measure 7.13-6 and 10.1-20 are an unlikely but necessary environmental cost of proceeding with the watershed program and with the Settlement Agreement.