# 5.3 Biological Resources

# 5.3 BIOLOGICAL RESOURCES

This section describes the biological resources occurring within the boundaries of the Project site and/or adjacent study area, and potential adverse impacts associated with Project implementation. This section is primarily based on the following studies, which are included in their entirety in Appendix E, *Biological Resources Reports*.

- *Cambria Emergency Water Supply Project San Simeon Creek Basin Groundwater Modeling Report* (GMR) (CDM Smith, May 2014) (see Appendix E1);
- *Cambria Emergency Water Supply Project Delineation of State and Federal Jurisdictional Waters* (JD) (Michael Baker International, September 2014) (see Appendix E2);
- *Final Report - Biological Monitoring Services for Initial Ground-Disturbing Activities for San Simeon Creek Road Project* (Cindy Cleveland and Julie Thomas, Senior Biologists, September 15, 2014) (see Appendix E3);
- *Sensitive Habitats and Potentially Occurring Sensitive Plant and Wildlife Species | Flora and Fauna Compendium* (Michael Baker International, July 2015) (see Appendix E4);
- *Report of Dr. Winston Vickers Regarding Restriction of Wildlife Access to Evaporation Pond Associated With Cambria Community Services District's Emergency Water Supply Project* (Hazing Study) (Dr. Winston Vickers, University of California, Davis, December 16, 2015) (see Appendix E5);
- *Technical Memorandum – San Simeon Creek Flows* (Technical Memorandum) (CDM Smith, October 16, 2016) (see Appendix E6); and
- *Cambria Sustainable Water Facility Project Delineation of Jurisdictional Waters - Update* (JD Update) (Michael Baker International, August 2016) (see Appendix E7).

The Michael Baker habitat assessment was conducted in May 2014 to identify sensitive habitats and/or species potentially occurring within the boundaries of the Project site and/or adjacent to the Project boundary that could pose a constraint to development. Michael Baker and others conducted additional focused surveys, based on the results of the habitat assessment. An outline of the surveys conducted is presented Table 5.3-1, *Summary of Focused Surveys Conducted*.

For purposes of this analysis, the Project site involves the 96-acre CCSD property shown on Exhibit 3-5, *SWF Project Facilities*. A small section of the San Simeon Creek Lagoon (approximately the uppermost 230 feet) is located within the Project site; the remaining downstream portion continues offsite to the west onto San Simeon State Beach. Therefore, the

following analysis addresses the "survey area" which is comprised of the Project site and the western portion of the San Simeon Creek Lagoon.

**Table 5.3-1**
**Summary of Focused Surveys Conducted**

| Type of Survey | Surveyor | Date |
|---|---|---|
| General Habitat Assessment | Michael Baker International (Thomas J. McGill, Ph.D., Travis J. McGill, and Ryan S. Winkleman) | May 8 – 9, 2014 |
| California Red-Legged Frog Focused Survey | Michael Baker International (Ryan S. Winkleman (TE-88331A-0, SC-10437) and Thomas C. Millington) | September 29 and October 5, 2014 |
| Tidewater Goby Focused Survey | D.W. Alley & Associates (Donald Alley) | October 21 – 22, 2014 |
| California Red-Legged Frog Focused Survey | Cleveland Biological (Cindy Cleveland) | May 21 and December 10, 2015 |
| California Steelhead Trout and Tidewater Goby Visual Survey | Cleveland Biological (Cindy Cleveland) | February 25, April 1, August 12, July 8, and October 2, 2015. |
| Adaptive Management Plan Monitoring Results | SWCA Environmental Consultants | January 12 and 30, 2015 |
| Report of Dr. Winston Vickers regarding Restriction of Wildlife Access to Evaporation Pond | University of California, David (Dr. Winston Vickers) | December 16, 2015 |

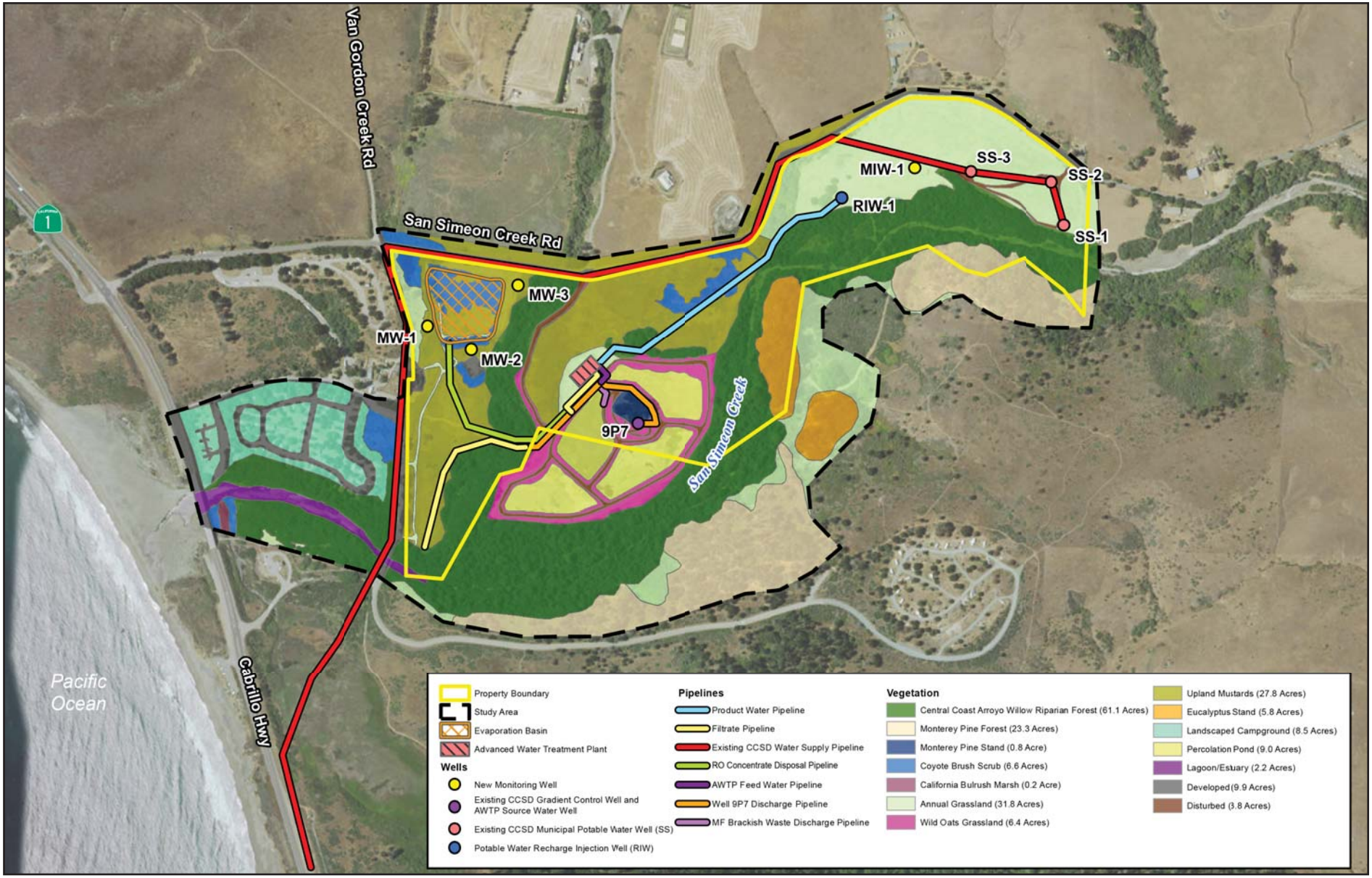
# 5.3.1 ENVIRONMENTAL SETTING

## VEGETATION COMMUNITIES

Eight plant communities were identified within the survey area during the initial habitat assessment:

- Central Coast Arroyo Willow Riparian Forest;
- Monterey Pine Stand/Monterey Pine Forest;
- Coyote Brush Scrub;
- California Bulrush Marsh;
- Annual Grassland;
- Wild Oats Scrub;
- Upland Mustards; and
- Eucalyptus Stand.

In addition, areas were identified that would be classified as Percolation Pond, Lagoon/Estuary, Disturbed, and Developed. These plant communities and additional areas are illustrated on Exhibit 5.3-1, *Vegetation Map*, and described below.




Sources: CDM Smith, ESRI World Imagery Basemap.

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# Vegetation Map

**Exhibit 5.3-1**

## Central Coast Arroyo Willow Riparian Forest

The Central Coast Arroyo Willow Riparian Forest is characterized by a dense, low, closed-canopy forest dominated by arroyo willow (*Salix lasiolepis*). It typically occurs in low gradient stream reaches in areas that are moist to saturated sandy or gravelly soil, especially in areas within the coastal fog incursion zone. It occurs along San Simeon and Van Gordon Creeks. Other common species along the edge of San Simeon Creek include western sycamore (*Platanus racemosa*), eucalyptus (*Eucalyptus* sp.), and cape ivy (*Delairea odorata*).

## Monterey Pine Stand/Monterey Pine Forest

There is one small stand of Monterey pine (*Pinus radiata*) located within the Project site. It is located in the center of the percolation ponds, with Well 9P7 located underneath the trees. The canopy cover in this area is composed entirely of Monterey pines, with the understory composed mostly of ripgut brome (*Bromus diandrus*) and wild oats (*Avena fatua*). In addition, a Monterey pine forest is located on the south side of San Simeon Creek.

## Coyote Brush Scrub

Coyote brush scrub is scattered throughout the Project site, however, it is concentrated in patches primarily southeast of the Van Gordon Creek Road/San Simeon-Monterey Creek Road intersection, around the Van Gordon Reservoir. It is dominated by coyote brush (*Baccharis pilularis*) and is intermixed with black mustard (*Brassica nigra*) and non-native grasses.

## Annual Grassland

Annual grasslands are located in the northeastern portion of the Project site between San Simeon-Monterey Creek Road and San Simeon Creek, as well as south of San Simeon Creek. This community is dominated largely by canary grass (*Phalaris aquatica*), wild oats, ripgut brome, dandelions (*Taraxacum officinale*), coyote brush, and other herbaceous vegetation.

## Wild Oats Grassland

Wild oats grassland is primarily located along the upper edges of and between the percolation ponds. It is dominated almost exclusively by thick stands of wild oats, but is intermixed with light coverage of ripgut brome, shortpodded mustard (*Hirschfeldia incana*), and canary grass.

## Upland Mustards

Upland mustard communities are located primarily in the center of the Project site, both east and west of Van Gordon Creek and north of the percolation ponds. This community intermixes with coyote brush scrub. It is dominated by thick, tall stands of black mustard with low-growing grasses (canary grass and bromes), milk thistle (*Silybum marianum*), dandelion, poison hemlock (*Conium maculatum*), and giant horse tail (*Equisetum telmateia* ssp. *braunii*).

## Eucalyptus Stand

Some small eucalyptus stands are located on the eastern side of the Project site on the south/eastern shore of San Simeon Creek. These are predominantly characterized by tall eucalyptus trees that are bordered and surrounded by the Central Coast Arroyo Willow Riparian Forest.

## Percolation Pond

There are four (4) percolation ponds located in the center of the Project site, northeast of the confluence of Van Gordon and San Simeon Creeks. While the ponds' upland edges are dominated by wild oats grasslands, the bottoms are periodically flooded for water treatment purposes and therefore undergo dynamic changes, sometimes holding dense vegetation, sometimes being bare and dry, and sometimes being inundated with water depending on the current treatment schedule.

## Lagoon/Estuary

San Simeon Creek Lagoon/Estuary is located just east of Van Gordon Creek Road to just west of SR 1. It is surrounded by the Central Coast arroyo willow riparian forest. When the sandbar is closed (typically late spring through fall or winter), this habitat is characterized as a lagoon. When it is open (typically fall or winter through early spring) it is characterized as an estuary where saltwater and freshwater merge. In some years, the sandbar may not open at all, resulting in only a lagoon habitat, and in others the sandbar may be artificially breached by an excess of water, resulting in premature or untimely estuary habitat.

## Disturbed

Disturbed areas within the survey area can be described as unpaved dirt roads, particularly those surrounding the percolation ponds and those passing through the eastern well field. These areas are not vegetated. It is also noted that the Van Gordon Reservoir was previously disturbed when originally constructed to serve as a holding basin for treated wastewater effluent.

## Developed

Developed areas within the survey area include existing wells and appurtenant water facilities, and the main access road to Well 9P7; see also Exhibit 3-4, *Existing Site Conditions*. These areas are not vegetated.

# WILDLIFE

Plant communities provide food sources, along with foraging, nesting and denning sites, cover, and protection from adverse weather or predation. This section provides a discussion of those wildlife species observed, expected, and not expected to occur onsite. The discussion is to be used as a general reference and is limited by the season, time of day, and weather condition in which the surveys were conducted. Wildlife observations were based on calls, songs, scat, tracks, burrows, and actual sightings of animals.

## Amphibians

Much of the Project site and its immediate surrounding area constitutes suitable habitat for amphibians. Two amphibians were detected onsite, the common species Sierran chorus frog (*Pseudacris sierrae*) and the federally threatened California Red-legged Frog (CRLF) (*Rana draytonii*). Other common amphibian species that could occur in Van Gordon and San Simeon Creeks or during heavy rainfall and subsequent ponding of water in the percolation ponds include western toad (*Anaxyrus boreas*), American bullfrog (*Lithobates catesbeianus*), ensatina (*Ensatina eschscholtzii*), and various species of slender salamander (*Batrachoseps* spp.). The Project site and surrounding area have the potential to support multiple special-status amphibians, including foothill yellow-legged frog (*Rana boylii*) and Coast Range newt (*Taricha torosa*). The status and habitat requirements for both of these species, as well as the CRLF, are discussed in greater detail below.

## Reptiles

The Project site has the potential to support both terrestrial and aquatic reptiles. Three reptile species were observed during surveys conducted: the common species western fence lizard (*Sceloporus occidentalis*) and coast garter snake (*Thamnophis elegans terrestris*), and the California species of special concern western pond turtle (*Clemmys marmorata*). The general Project vicinity has the potential to support a number of reptilian species including gopher snakes (*Pituophis catenifer*), garter snakes (*Thamnophis* ssp.), California kingsnake *(Lampropeltis getula californiae*), northern Pacific rattlesnake (*Crotalus oreganus oreganus*), alligator lizard (*Elgaria multicarinata*), and side-blotched lizard (*Uta stansburiana*). The Project site and surrounding area also have the potential to support two-striped garter snake (*Thamnophis hammondii*).

## Avian

The Project site and adjacent area support a high variety of avian species. Because of the high number of species observed, only the most numerous are mentioned here. Those that were observed in the greatest quantities during surveys included mallard (*Anas platyrhynchos*), turkey vulture (*Cathartes aura*), California gull (*Larus californicus*), Pacific-slope flycatcher (*Empidonax difficilis*), chestnut-backed chickadee (*Poecile rufescens*), bushtit (*Psaltriparus minimus*), cedar waxwing (*Bombycilla cedrorum*), song sparrow (*Melospiza melodia*), red-winged blackbird (*Agelaius phoeniceus*), and house finch (*Haemorhous mexicanus*). The Project site and surrounding area have the potential to support special-status raptors such as ferruginous hawk (*Buteo regalis*) and prairie falcon (*Falco mexicanus*). The status and habitat requirements for these two species are discussed in greater detail below.

## Mammals

The plant communities within the Project site are anticipated to provide suitable habitat for a number of mammalian species acclimated to heavy disturbance. However, most mammal species are nocturnal and are difficult to observe during a diurnal field visit. Mammals observed during surveys include mule deer (*Odocoileus hemionus*), striped skunk (*Mephitis mephitis*), and feral pig (*Sus scrofa*), with additional sign from coyote (*Canis latrans*) and woodrat (*Neotoma* spp.). Additional common mammalian species expected to occur on the Project site include California ground squirrel (*Otospermophilus beecheyi*), Botta's pocket gopher (*Thomomys bottae*), California vole (*Microtis californicus*), deer mouse (*Peromyscus maniculatus*), raccoon (*Procyon lotor*), cottontail rabbits (*Sylvilagus audubonii*), and opossum (*Didelphis virginiana*). The Project site and surrounding area have the potential to support special-status mammals, including fringed myotis (*Myotis thysanodes*) and Yuma myotis (*Myotis yumanensis*). The status and habitat requirements for these two species are discussed in greater detail below.

## Fish

When wetted, San Simeon Creek, Van Gordon Creek, the San Simeon Creek Lagoon, and their tributaries provide suitable habitat for fish. Threespine stickleback (*Gasterosteus aculeatus*) and the federally endangered tidewater goby (*Eucyclogobius newberryi*) were observed during the May 2014 habitat assessment in San Simeon Creek and San Simeon Creek Lagoon. Tidewater goby was also observed throughout San Simeon Creek Lagoon during focused surveys conducted in October 2014, July through October 2015; refer to the *Focused Surveys* Section below. In addition to tidewater goby, the aforementioned waterways have the potential to support another special-status fish species, steelhead trout (*Oncorhynchus mykiss*). The status and habitat requirements for both of these species are discussed in greater detail below.

## NESTING BIRDS

The plant communities within and adjacent to the Project site have the potential to provide suitable nesting opportunities for raptors and passerines. The initial habitat assessment was conducted during the breeding season, and one likely red-tailed hawk (*Buteo jamaicensis*) nest was observed. A pair of red-tailed hawks was observed for an extended period circling and flying in the vicinity of a large nest in a tall pine tree on the edge of San Simeon Creek during the general habitat assessment, but neither bird was observed entering or leaving the nest.

## MIGRATORY CORRIDORS AND LINKAGES

The eastern portion of the Project site abuts the Santa Lucia Mountain foothills. This mountain range provides a natural corridor to the north and south along the Coast Ranges. However, while the Project vicinity is considered to be a north-south migratory linkage along the mountains, no formal east-west linkage has been recognized along San Simeon Creek or the other waterways by connectivity assessments such as Missing Linkages (Penrod et al. 2001) or the California Essential Habitat Connectivity Project (Spencer et al. 2010). Nonetheless, San Simeon Creek and the other waterways are likely to provide valuable migration habitat for birds and fish. San Simeon Creek is recognized by the California Coastal Commission (CCC) and California Department of Fish and Wildlife (CDFW) as an essential creek for steelhead migration, and the lagoon that forms at the mouth of San Simeon Creek can host both juvenile steelhead and tidewater goby (CCC 1998). While CRLF can migrate or move into upland areas during the nonbreeding season, this is decided by individual frogs and is not necessarily a feature of every frog in a population. Nevertheless, frogs that may be present in San Simeon Creek or other waterways in the Project vicinity may migrate up and down the waterways or leave the water and head to upland grasslands during seasonal migrations (typically in the non-breeding season).

## JURISDICTIONAL WATERS

A jurisdictional delineation (JD) (see Appendix E2) was prepared in September 2014 to document the jurisdictional authority of the U.S. Army Corps of Engineers Los Angeles District (Corps), Central Coast Regional Water Quality Control Board (RWQCB), CDFW Central Region, and CCC pursuant to Federal Clean Water Act (CWA) Sections 401 and 404, Rivers and Harbors Act Section 10, the California Porter-Cologne Water Quality Control Act, Fish and Game [Wildlife] Code Section 1600, and the California Coastal Act. The JD field work was conducted August 13 and 14, 2014. Michael Baker conducted a site reconnaissance to determine jurisdictional "waters of the United States" and "waters of the State" (including potential wetlands and vernal pools), located within the boundaries of the Project site. Refer to JD Section 2, *Methodology*, for further discussion concerning the methodology used in the delineation. Additionally, an update to the JD was prepared in August 2016 to update the 2014 JD to reflect the currently proposed Project. The findings of the JD and JD Update are presented below.

# U.S. Army Corps of Engineers Determination

### WATERS OF THE UNITED STATES DETERMINATION

Evidence of an OHWM was noted within and adjacent to the Project site, which totaled 6.71 acres. The onsite drainage features, San Simeon Creek and Van Gordon Creek, exhibit a hydrological connection to downstream waters (Pacific Ocean). Therefore, the onsite drainage features are considered "Waters of the United States" which fall within Corps' jurisdiction. The onsite Corps jurisdictional areas are summarized in Table 5.3-2, *Corps/Regional Board Jurisdictional Areas*, and illustrated on Exhibit 5.3-2, *Corps/Regional Board Jurisdictional Map*.

**Table 5.3-2**
**Corps/Regional Board Jurisdictional Areas**

| Jurisdictional Feature | Non-Wetland | | Wetland | |
|---|---|---|---|---|
| | Acreage | Linear Feet | Acreage | Linear Feet |
| San Simeon Creek | 5.94 | 6,792 | 0.39 | - |
| Van Gordon Creek | 0.77 | 2,233 | - | - |
| ***Total*** | ***6.71*** | ***9,025*** | ***0.39*** | ***-*** |

Source: Michael Baker International, *Cambria Emergency Water Supply Project Delineation of State and Federal Jurisdictional Waters Table 1*, October 2015.

### WETLAND DETERMINATION

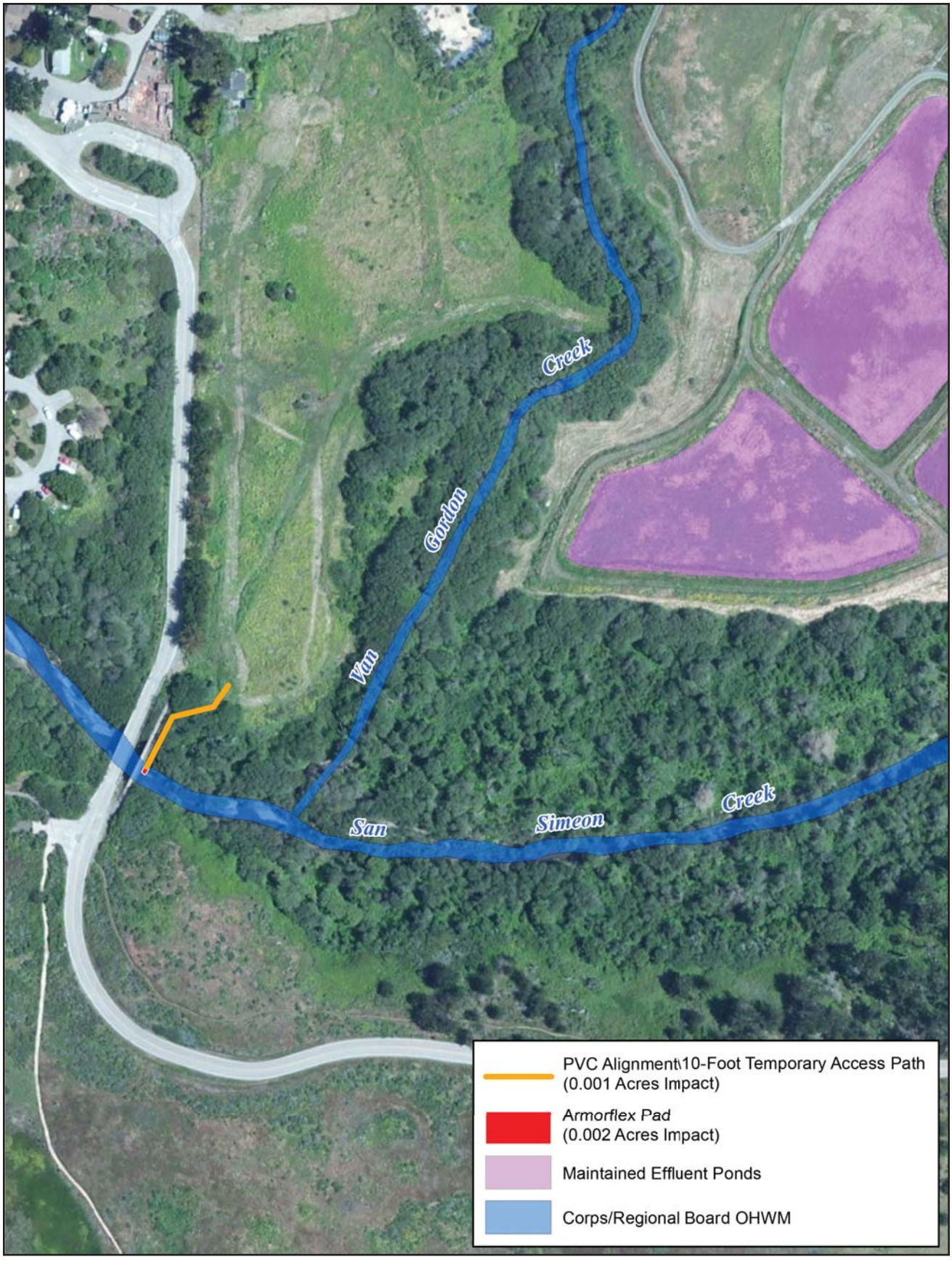
An area must exhibit all three wetland parameters described in the Corps Regional Supplement (hydrologic conditions, hydrophytic vegetation, and hydric soils) to be considered a jurisdictional wetland. Based on the site visit, it was determined that all three wetland parameters are present within 0.39 acre of the western portion of the Project site.

# Regional Water Quality Control Board Determination

No isolated or Rapanos conditions were observed within the boundaries of the Project site; therefore, the RWQCB follows that of Corps jurisdiction; refer to Corps discussion above.

# California Department of Fish and Wildlife Determination

The onsite drainage features exhibited a bed and bank, and thus qualify as CDFW jurisdictional streambed. The onsite CDFW jurisdictional areas are summarized in Table 5.3-3, *CDFW Jurisdictional Areas*, and illustrated on Exhibit 5.3-3, *CDFW Jurisdictional Map*.




Sources: CDM Smith, ESRI World Imagery Basemap 2010.

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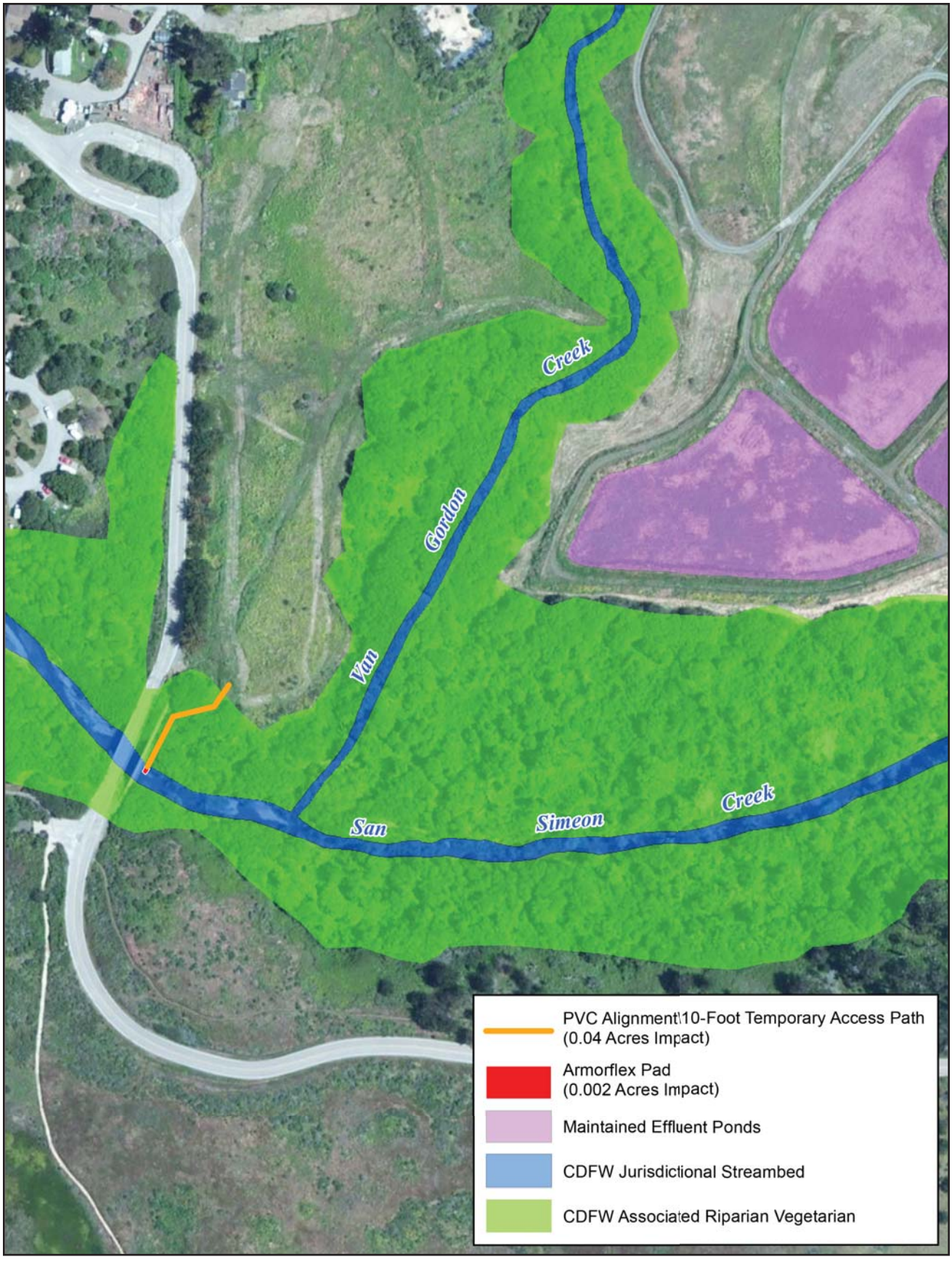
# Corps/Regional Board Jurisdictional Map

**Exhibit 5.3-2**




Sources: CDM Smith, ESRI World Imagery Basemap 2010.

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# CDFW Jurisdictional Map

**Exhibit 5.3-3**

**Table 5.3-3**
**CDFW Jurisdictional Areas**

| Jurisdictional Feature | Streambed | | Associated Vegetation | |
|---|---|---|---|---|
| | Acreage | Linear Feet | Acreage | Linear Feet |
| San Simeon Creek | 5.94 | 6,792 | 45.17 | - |
| Van Gordon Creek | 0.77 | 2,233 | 8.59 | - |
| ***Total*** | ***6.71*** | ***9,025*** | ***53.76*** | ***-*** |

Source: Michael Baker International, *Cambria Emergency Water Supply Project Delineation of State and Federal Jurisdictional Waters Table 2*, October 2015.

Based on the results of the field investigation, approximately 6.71 acres of CDFW jurisdictional streambed occur within the Project site. In addition, approximately 53.76 acres of associated CDFW jurisdictional riparian vegetation is located within the Project site.

## California Coastal Commission Determination

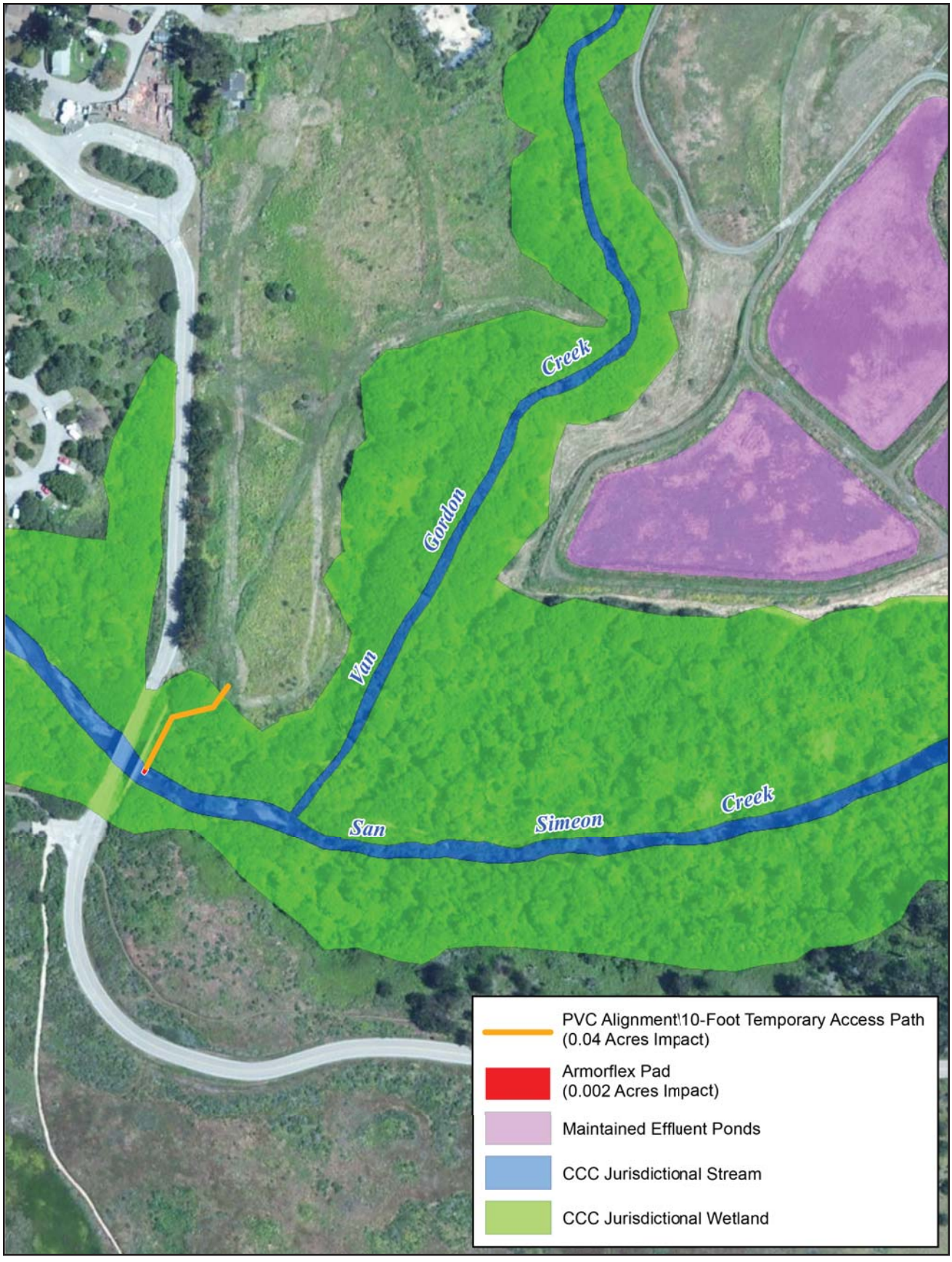
The onsite CCC jurisdictional areas are summarized in Table 5.3-4, *CCC Jurisdictional Areas*, and illustrated on Exhibit 5.3-4, *CCC Jurisdictional Map*.

**Table 5.3-4**
**CCC Jurisdictional Areas**

| Jurisdictional Feature | Stream | | Wetland | |
|---|---|---|---|---|
| | Acreage | Linear Feet | Acreage | Linear Feet |
| San Simeon Creek | 5.94 | 6,792 | 46.06 | - |
| Van Gordon Creek | 0.77 | 2,233 | 8.59 | - |
| ***Total*** | ***6.71*** | ***9,025*** | ***54.65*** | ***-*** |

Source: Michael Baker International, *Cambria Emergency Water Supply Project Delineation of State and Federal Jurisdictional Waters Table 3*, October 2015.

Based on the results of the field investigation, the onsite coastal streams total 6.71 acres and the coastal wetlands total 54.65 acres, both of which qualify as CCC jurisdiction pursuant to California Coastal Act Section 30121. Thus, approximately 61.36 acres of CCC jurisdiction are located within the boundaries of the Project site.




Sources: CDM Smith, ESRI World Imagery Basemap 2010.

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# CCC Jurisdictional Map

**Exhibit 5.3-4**

# SENSITIVE BIOLOGICAL RESOURCES

The California Natural Diversity Database (CNDDB) was queried for reported locations of listed and sensitive plant and wildlife species, as well as sensitive natural plant communities in the Cambria, Pebblestone Shut-in, Pico Creek, and San Simeon USGS 7.5-minute quadrangles. A search of published records of these species was conducted within these quadrangles using the CNDDB Rarefind 5 online software. The California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants of California supplied information regarding the distribution and habitats of vascular plants in the Project vicinity. The habitat assessment was used to assess the ability of the vegetation communities found onsite to provide suitable habitat for relevant special-status plant and wildlife species.

The literature search identified 33 sensitive plant species, 16 sensitive wildlife species, and two sensitive habitats as having the potential to occur within the queried quadrangles. Sensitive plant and wildlife species were evaluated for their potential to occur within the Project boundaries based on habitat requirements, availability and quality of suitable habitat, and known distributions. Species determined to have the potential to occur within the general vicinity are presented in Appendix A, *Sensitive Habitats and Potentially Occurring Sensitive Plant and Wildlife Species*, of Appendix E4. Appendix A of Appendix E4 summarizes conclusions from analysis and field surveys regarding the potential occurrence of listed and sensitive plant and wildlife species within the Project site.

## Sensitive Plants

A total of 33 special-status plant species have been recorded in the Cambria, Pebblestone Shut-in, Pico Creek, and San Simeon USGS quadrangles. Based on habitat requirements for specific species, and availability and quality of habitats needed by sensitive plant species, it was determined that the survey area has a moderate potential to provide suitable habitat for two sensitive plant species, with one additional species that was observed to be present. These species are described below.

### COMPACT COBWEBBY THISTLE

Compact cobwebby thistle (*Cirsium occidentale* var. *compactum*) is a perennial herb that flowers between April and June. It is designated by the CNPS with the Rare Plant Rank 1B.2, indicating that is rare, threatened, or endangered in California and elsewhere, and is fairly endangered in California. It is endemic to California and is primarily known from San Luis Obispo County (County). It occurs in chaparral, grassland, coastal prairies, and coastal scrub on dunes and in clay soils at elevations between 16 and 492 feet.

There is suitable habitat for this species within the Project site's grassland areas. Many soils in the Project area also have clay elements necessary to support this species. This species was

detected in 1991 on a coastal bluff approximately 0.25 mile north of the western edge of San Simeon Creek Lagoon, and approximately 0.5 mile from the edge of the site. This species is expected to have a moderate potential to occur on the Project site.

**JONES' LAYIA**

Jones' layia (*Layia jonesii*) is an annual herb that flowers between March and May. It is designated by the CNPS with the Rare Plant Rank 1B.2, indicating that is rare, threatened, or endangered in California and elsewhere, and is fairly endangered in California. It is endemic to California and is only known to occur in the County. It occurs in clay and serpentine soils in chaparral and valley and foothill grassland at elevations between 16 and 1,312 feet.

Suitable habitat for this species occurs on the eastern side of the Project area in the grassland areas. Many soils in the Project area also have clay elements needed to support this species. This species is expected to have a moderate potential to occur on the Project site.

**MONTEREY PINE**

Monterey pine is a perennial evergreen tree. It is designated by the CNPS with the Rare Plant Rank 1B.1, indicating that is rare, threatened, or endangered in California and elsewhere, and is seriously endangered in California. It is cultivated throughout the world but only occurs naturally at three locations in California, including one near Cambria. It occurs in closed-cone coniferous forests and cismontane woodlands at elevations between 82 and 607 feet in elevation.

This species was observed onsite during the habitat assessment. It is present in a small stand in the center of the percolation ponds, surrounding Well 9P7.

## Sensitive Wildlife

A total of 16 special-status wildlife species have been recorded in the Cambria, Pebblestone Shut-in, Pico Creek, San Simeon USGS quadrangles. Based on habitat requirements for specific species, availability, and quality of habitats needed by sensitive wildlife species, it was determined that the Project site has a moderate to high potential to provide suitable habitat for eight sensitive wildlife species Three additional sensitive wildlife species were observed onsite.

**AMPHIBIAN AND REPTILE SPECIES**

Based on the results of the habitat assessment, it was determined that the habitat in and around the Project site has a moderate to high potential to provide suitable habitat for three sensitive amphibian and reptile species listed in the CNDDB as having the potential to occur on or within the general Project vicinity. Two additional species were observed onsite in fall 2014.

**Western Pond Turtle**

The CDFW has designated the western pond turtle as a California species of special concern. It typically inhabits slow-moving streams, ponds, and marshes with exposed banks, logs, and other suitable locations for basking. Pond turtles mate and lay eggs in spring and summer in upland grassland habitat and in most of their range will overwinter between October and April.

Western pond turtle was observed in San Simeon Creek Lagoon during CRLF surveys conducted by Michael Baker. Suitable habitat is located within the lagoon and in San Simeon Creek, particularly in the downstream reaches of San Simeon Creek where the creek substrate gives way from rocks to sandy or muddy bottoms, which are often utilized by pond turtles for hiding during evasive movements. This species is considered present in the area (San Simeon Creek, Van Gordon Creek, and San Simeon Creek Lagoon) based on Michael Baker's observations.

**Foothill Yellow-Legged Frog**

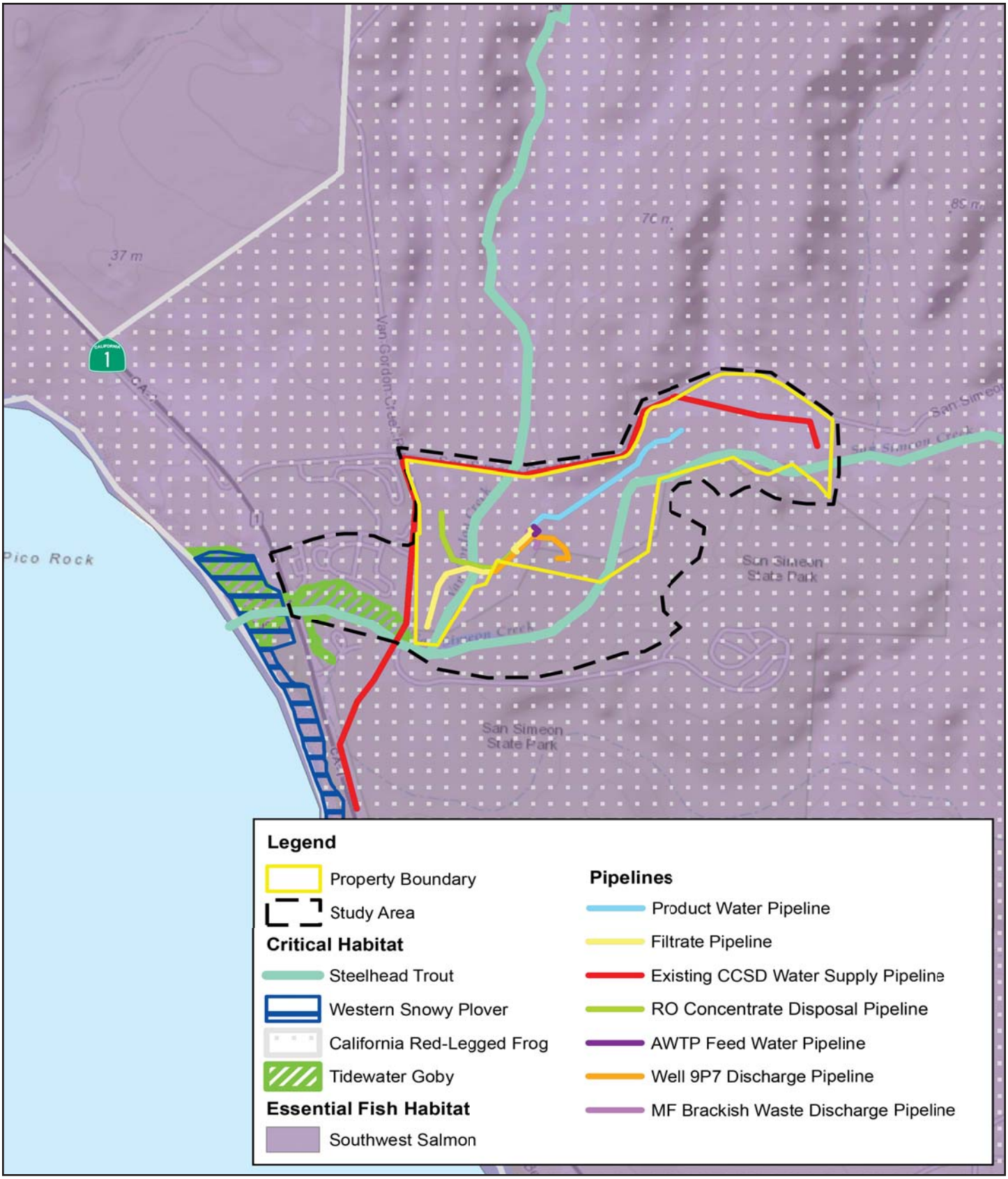
CDFW has designated the foothill yellow-legged frog as a California species of special concern. It is primarily found in slow-moving rocky streams with open, sunny banks, although it may also be found in isolated pools and backwaters. Surrounding vegetation may include forests, woodlands, chaparral, and meadow communities. Foothill yellow-legged frogs typically breed between April and July after water levels have stabilized and turbidity has decreased.

There is suitable habitat for this species in the upland portions of San Simeon Creek, where the creek contains a rocky substrate. At the time of the habitat assessment this area was almost completely dry, with only small pools persisting that contained Sierran chorus frog tadpoles. This species has a moderate potential to occur in San Simeon Creek, San Simeon Creek Lagoon, and Van Gordon Creek.

**California Red-Legged Frog**

The California Red-Legged Frog (CRLF) is federally listed as threatened and is designated by the CDFW as a California species of special concern. The CRLF is primarily found near ponds in humid forests, woodlands, grasslands, coastal scrub, and streamsides with plant cover and is most common in lowlands or foothills. The CRLF typically breeds in winter and spring between February and April in permanent or ephemeral water sources including lakes, ponds, reservoirs, slow streams, marshes, bogs, and swamps.

CRLF was observed in San Simeon Creek and San Simeon Creek Lagoon during two focused surveys conducted by Michael Baker in September and October 2014. CRLF was also observed in San Simeon Creek and San Simeon Creek Lagoon during the focused surveys conducted by Cleveland Biological in February and April 2015. The entire Project site is located within CRLF Critical Habitat Unit SLO-2; see Exhibit 5.3-5, *Critical Habitat and Essential Fish Habitat*. This species is present in San Simeon Creek, San Simeon Creek Lagoon, and under suitable conditions should also be considered present in Van Gordon Creek.




Sources: USFWS Critical Habitat, NOAA Fisheries, CDM Smith, ESRI World Topographic Map.

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# Critical Habitat and Essential Fish Habitat

**Exhibit 5.3-5**

**Coast Range Newt**

The CDFW has designated the coast range newt as a California species of special concern. It is typically found in rivers, streams, lakes, and ponds, particularly those with rocky substrates. It is never far from water. In most areas this species is terrestrial during most of the year, but in anticipation of its breeding season (typically December to May) these individuals will migrate back to water and undergo a physiological change into an aquatic form. In areas of permanent water, some individuals may stay in the aquatic phase year-round.

There is suitable habitat for this species in San Simeon Creek, particularly in the upper portions and areas where water may be slow-moving or have distinct and protected pools. This species was not observed during Michael Baker's surveys, but has a moderate potential to occur in San Simeon Creek, San Simeon Creek Lagoon, and Van Gordon Creek.

**Two-striped Garter Snake**

The CDFW has designated the two-striped garter snake as a California species of special concern. It is primarily an aquatic species and is typically found in or near permanent or semi-permanent water including creeks, pools, stockponds, and other areas. Surrounding vegetation is typically made up of chaparral, forest, woodland, and grassland, and may vary according to the season. This species is primarily active between spring and fall, and in many cases will retreat into a burrow for the winter. Breeding occurs in the spring after the snakes emerge into the active season again.

There is suitable habitat for this species in San Simeon Creek. While it is more likely to be found in the downstream sections where more water is present, it could occur throughout the creek. This species was not observed during the Michael Baker habitat assessment, but has a moderate potential to occur in San Simeon Creek, San Simeon Creek Lagoon, and Van Gordon Creek.

**AVIAN SPECIES**

Based on the results of the habitat assessment, it was determined that the habitat in and around the Project site has a moderate to high potential to provide suitable habitat for two sensitive avian species listed in the CNDDB as having the potential to occur on or within the Project site's general vicinity.

**Ferruginous Hawk**

The ferruginous hawk is on the CDFW watch list of sensitive species. This species frequents open grasslands, sagebrush flats, desert scrub, low foothills surrounding valleys, and fringes of pinyon-juniper habitats. It nests in foothills or prairies; on low cliffs, buttes, cut banks, shrubs, trees, or in other elevated structures, natural or manmade. This species requires large, open tracts

of grasslands, sparse shrub, or desert habitats. Ferruginous hawk could roost or forage within the general Project vicinity, however, because it is only present in this area during the fall and winter, it would not nest within the Project vicinity. This species has a moderate potential to occur on the Project site.

**Prairie Falcon**

The prairie falcon is on the CDFW watch list of sensitive species. This species is relatively uncommon and is most often found in dry, open habitats including deserts, shrublands, agricultural areas, and especially grasslands. While it will forage in these areas, it nests on cliff ledges. Along the immediate South/Central Coast where the Project is located, this species is only present as a wintering bird; however, just inland, it is a year-round resident.

This species could forage in the Project vicinity, especially in adjacent agricultural and open fields. It may also perch and roost on transmission structures and tall trees in the area. This species has a moderate potential to occur on the Project site.

**MAMMALIAN SPECIES**

Based on the results of the habitat assessment, it was determined that the Project site has a moderate to high potential to provide suitable habitat for two sensitive mammal species listed in the CNDDB as having the potential to occur on or within the Project site's general vicinity.

**Fringed Myotis**

Fringed myotis occurs in a wide variety of habitats but is most often found in pinyon-juniper, valley foothill hardwood, and hardwood-coniferous habitats, generally between 4,265 and 7,218 feet in elevation. However, it can also be found down to sea level, and in 2000, multiple individuals of this species were trapped close to shore, including one only 0.25 mile from the San Simeon Creek Lagoon. This species roosts in caves, mines, buildings, and crevices, and may roost in separate areas during the day from at night. Maternity colonies are located in the same types of roosting habitat between late April and September and may contain up to 200 individuals. This species typically hibernates between October and March, and maternity colonies may hibernate together as well.

There is suitable foraging habitat within the Project site and the surrounding vicinity. It is unknown if suitable roosting habitat is present, but none was observed during the habitat assessment or subsequent surveys. This species is nocturnal and was not observed during the habitat assessment, but is expected to have a moderate potential to occur. No bats were observed during the nocturnal CRLF surveys.

**Yuma Myotis**

Yuma myotis (*Myotis yumanensis*) occurs in a wide variety of habitats but is most often found in open forests and woodlands near water for foraging, generally at elevations between sea level and 10,827 feet. In 2000, three Yuma myotis were trapped close to shore only 0.25 mile from the San Simeon Creek Lagoon. This species roosts in caves, mines, buildings, and crevices, and may also use abandoned swallow nests and bridges as roosts. It may roost in separate areas during the day from at night, with night roosts generally being more open. Maternity colonies are located in the same types of roosting habitat and may contain thousands of individuals, though if temperatures exceed 40°C the individuals tend to roost elsewhere where it will be cooler and situate themselves farther apart from each other. This species probably hibernates, though not much information is available on its habits.

There is suitable foraging habitat within the Project site and the surrounding vicinity. It is unknown if suitable roosting habitat is present, but none was observed during the habitat assessment or subsequent surveys. This species is nocturnal and was not observed during the habitat assessment, but is expected to have a moderate potential to occur. No bats were observed during the nocturnal CRLF surveys.

**FISH SPECIES**

Based on the results of the habitat assessment, it was determined that the habitat in San Simeon Creek, Van Gordon Creek, and San Simeon Creek Lagoon has a high potential to provide suitable habitat for one sensitive fish species listed in the CNDDB as having the potential to occur on or within the general vicinity of the Project site. An additional species was recorded in San Simeon Creek Lagoon during Michael Baker's habitat assessment and during focused surveys conducted in October 2014, and February and April 2015.

**Tidewater Goby**

The tidewater goby (*Eucyclogobius newberryi*) is federally listed as endangered and is designated by the CDFW as a California species of special concern. It occurs primarily in coastal lagoons and estuaries and has only been captured in marine environments in very few instances. In their habitat, tidewater gobies are generally present in the upper estuary where the freshwater and saltwater mix, and will range upstream into pure freshwater and downstream into areas of majority salt water (up to about 75 percent). Although they can be present in water where salinity ranges up to 28 parts per thousand, they are predominantly found in areas where salinity is less than 12 parts per thousand, i.e., on the upper edges of tidal bays and in coastal lagoons. Tidewater gobies reproduce throughout the year but peak reproduction occurs in spring and late summer.

There is occupied habitat for this species downstream of the Project site in San Simeon Creek Lagoon. This species was observed in the San Simeon Creek Lagoon, which is also tidewater

goby designated Critical Habitat Unit SLO-5 (refer to Exhibit 5.3-5), during the habitat assessment and focused surveys. This species is considered present in San Simeon Creek Lagoon.

**Steelhead (South/Central California Coast DPS)**

Steelhead (*Oncorhynchus mykiss*) is federally listed as threatened and is designated by the CDFW as a California species of special concern. The population in the Project vicinity ranges from Santa Cruz County south to, but not including, the Santa Maria River. Typical freshwater steelhead habitat consists of gravel-bottomed, fast-flowing, well-oxygenated rivers and streams. Dissolved oxygen levels should be at least seven parts per million, and streams should have deep, low-velocity pools for wintering. Juveniles will typically spend between one and three years maturing in a freshwater or estuarine environment before migrating out to sea. After a typical span of one to four years of maturation in the ocean, the fish will return to their natal waters to spawn again.

There is suitable habitat for this species in San Simeon Creek, with perennial reaches of the creek occurring well upstream from the Project area. Past study of the area by the U.S. Geological Survey has found that the lower reaches of the creek (such as traverse the Project site) flow subterranean during the dry season due to natural dry-season water level decline (i.e., decline without any pumping occurring).[1] Thus, the lower reaches of San Simeon Creek (as well as Van Gordon Creek) are not perennial. The SWF will normally be operated during the dry season after the creeks are already dry. If it were to be operated during periods when the creek(s) are flowing, the AMP monitoring would be its mitigation. This species has been historically recorded over many years to occur within San Simeon Creek and downstream in the San Simeon Creek Lagoon. Additionally, past anthropogenic activities (fish plantings), have occurred to support establishment of the species within this watershed.[2] San Simeon and Van Gordon Creeks are part of the steelhead designated Critical Habitat unit that is located within the Estero Bay Hydrologic Unit (refer to Exhibit 5.3-5). While not observed during the habitat assessment or focused tidewater goby surveys, this species is expected to have a high potential for occurrence during seasonal periods when the creek is flowing, and should be assumed to be present within the San Simeon Creek, Van Gordon Creek, and San Simeon Creek Lagoon, in the absence of any formal surveys.

[1] USGS Report 98-4061, Hydrolgeology, Water Quality, and Water Budgets, and Simulated Responses to Hydrologic Changes in Santa Rosa and San Simeon Creek Ground-Water Basins, San Luis Obispo County, California, Yates, E.B., Van Koneyenberg, K.M., p. 82.

[2] Titus, R. G., D. C. Erman, and W. M. Snider. History and status of steelhead in California coastal drainages south of San Francisco Bay. *In draft* for publication as a Department of Fish and Game, Fish Bulletin. August 2010, pp. 187-192.

## Sensitive Habitats

The CNDDB lists two sensitive habitats, Monterey Pine Forest and Valley Oak Woodland, as having the potential to occur within the Cambria, Pebblestone Shut-in, Pico Creek, San Simeon USGS quadrangles. Valley Oak Woodland is not present on the Project site.

**MONTEREY PINE FOREST**

An existing water well in the center of the percolation ponds is in a small stand of Monterey pines. However, based on the small size of this stand it is not considered an actual "forest" community, but rather an isolated stand. There are scattered Monterey pines present offsite, on the hillsides south of the Project site.

## Critical Habitat

Under the federal Endangered Species Act, "Critical Habitat" is designated at the time of or within one year of a species' listing. "Critical Habitat" refers to habitat or a specific geographic area that contains the elements and features that are essential for the survival and recovery of the species. In the event that a project results in take or in adverse effects to a species' designated Critical Habitat, the project proponent may be required to engage in suitable mitigation. However, consultation for impacts to Critical Habitat is only required when a project has a federal nexus (i.e., occurs on federal land, is issued federal permits [e.g., Corps Section 404 Clean Water Act permit], or receives any other federal oversight or funding). If a project does not have a federal nexus, Critical Habitat consultations are not required.

Designated Critical Habitat for four species is located in and around the Project site refer to Exhibit 5.3-5. CRLF Critical Habitat Unit SLO-2 encompasses the entire Project site. This area includes aquatic habitat that is suitable for both breeding (PCE 1) and non-breeding (PCE 2) habitat, as well as upland habitat that could be used for foraging (PCE 3) and dispersal (PCE 4).

Tidewater goby Critical Habitat Unit SLO-5 includes the San Simeon Creek Lagoon and downstream reach of an eastern tributary immediately north of SR-1. This area includes a persistent, shallow lagoon containing soft substrate suitable for the construction of burrows for reproduction (PCE 1a) and with submerged and emergent aquatic vegetation that provides protection from predators and high flow events (PCE 1b).

South-central California Coast steelhead Critical Habitat is located within the Estero Bay Hydrologic Unit and includes an approximately 5.5-mile stretch of San Simeon Creek beginning downstream of the North Fork/South Fork San Simeon Creek convergence and ending at the ocean. The lower reaches of San Simeon Creek flow intermittently, and are dry during the summer dry season, except for the lower San Simeon Creek Lagoon, which may have some hydraulic connectivity with the groundwater table where surface water occurs in the vicinity of

the Hearst San Simeon State Park (State Park) San Simeon Creek Campground and San Simeon State Beach area. Past study of the area by the U.S. Geological Survey has found that the lower reaches of the creek flow subterranean during the dry season due to natural dry-season water level decline (i.e., decline without any pumping occurring). Upper reaches of San Simeon Creek do have some perennial flow occurring, but these reaches are about three miles further up-gradient from the Project site, at a higher elevation, and are beyond any area that may be influenced by the Project. Therefore, the primary reach of concern that could be indirectly affected by Project implementation is the lower reach area, which would include the San Simeon Creek Lagoon.

Snowy plover Critical Habitat Unit CA-26 is located offsite along San Simeon State Beach and encompasses most of San Simeon Creek Lagoon downstream (west) of SR-1. This area includes sandy beach above and below the high-tide line (PCE 1) with occasional surf-cast wrack supporting small invertebrates and generally barren to sparsely vegetated terrain (PCEs 2 and 3). It is an important wintering area where up to 143 snowy plovers have been recorded in a single season (at the time of Critical Habitat designation in 2012). This area includes a portion of the San Simeon Creek Lagoon, which is partially located onsite; however, the occupied habitat of this species occurs in sandy areas, which are offsite.

### Essential Fish Habitat

The Project site is located within designated Essential Fish Habitat (EFH) for Coho salmon (*Oncorhynchos kisutch*); refer to Exhibit 5.3-5. EFH for various species of groundfish is designated near the Project site, but ends at the shoreline outside of the Project limits. Under the provisions of Magnuson-Stevens Act (MSA) Section 305(b), if the Project has a federal nexus and will be issued a federal permit, the federal agency will be required to consult with NMFS for impacts to EFH. If no federal agency is involved, this consultation will not be necessary. Because the Project will have a federal nexus, EFH consultation will be required.

## 5.3.2 REGULATORY SETTING

### FEDERAL

### Federal Endangered Species Act

Federally listed threatened and endangered species and their habitats are protected under provisions of the Federal Endangered Species Act (ESA). ESA Section 9 prohibits "take" of threatened or endangered species. "Take" under the ESA is defined as to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any of the specifically enumerated conduct." The presence of any federally threatened or endangered species that are in a Project area generally imposes severe constraints on development, particularly if development would result in "take" of the species or its habitat. Under the ESA regulations, the

U.S. Fish and Wildlife Service (USFWS) may authorize "take" when it is incidental to, but not the purpose of, an otherwise lawful act.

"Harm" has been defined by USFWS regulations to include types of "significant habitat modification or degradation." The U.S. Supreme Court, in *Babbit v. Sweet Home*, 515 U.S. 687, ruled that "harm" may include habitat modification "...where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering." Activities that may result in "take" of individuals are regulated by USFWS.

Under the ESA, "Critical Habitat" is also designated at the time of listing or within one year of listing. "Critical Habitat" refers to habitat or a specific geographic area that contains the elements and features that are essential for the survival and recovery of the species. In the event that a project may result in take or in adverse effects to a species' designated Critical Habitat, the project proponent may be required to engage in suitable mitigation. If the project is on federal lands, will require federal permits (e.g., regulatory permits), or otherwise will have a federal lead agency, the proponent will be required to enter into Section 7 informal and/or formal consultations with the USFWS to obtain, if possible, a biological opinion (BO) allowing for incidental take of the species in question. If the project is on private land or will not require any federal permits, the proponent will be required to write a habitat management plan to address the impacts.

The ESA defines as "endangered" any plant or animal species that is in danger of extinction throughout all or a significant portion of its range. A "threatened" species is a species that is likely to become endangered in the foreseeable future. A "proposed" species is one that has been officially proposed by USFWS for addition to the federal threatened and endangered species list.

USFWS produced an updated list of candidate species for listing in June 2002 (Federal Register: Volume 67, Number 114, 50 CFR Part 17). Candidate species are regarded by USFWS as candidates for addition to the "List of Endangered and Threatened Wildlife and Plants." Although candidate species are not afforded legal protection under the ESA, they typically receive special attention from federal and state agencies during the environmental review process.

USFWS also uses the label "species of concern," an informal term that refers to species which might be in need of concentrated conservation actions. As the species of concern designated by USFWS do not receive formal legal protection, the use of the term does not necessarily ensure that the species will be proposed for listing as a threatened or endangered species.

The Project is located within several overlapping areas that have been designated Critical Habitat. Direct or indirect adverse impacts to these areas known or presumed to support federally listed species may trigger the requirement for state and/or federal incidental take permits.

## Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act, otherwise known as the Magnuson-Stevens Act (MSA) was enacted to help protect, conserve, and manage the fishery resources of the United States in the face of overfishing, habitat losses, and ineffective international agreements. The MSA provides the United States with exclusive fishery management rights to all fish within and beyond the U.S. "exclusive economic zone" and all Continental Shelf fishery resources, except when the fish are within the waters of a foreign nation, and allows the United States to regulate international fishing within waters managed by the U.S.

Through MSA Section 303, the National Oceanic and Atmospheric Administration (NOAA) is required to work with regional Fishery Management Councils to develop fishery management plans (FMPs) for the protection of fisheries under their jurisdiction. These FMPs are implemented by NOAA's National Marine Fisheries Service (NMFS). One of the required provisions in FMPs is to establish "Essential Fish Habitat" (EFH), defined as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." Through MSA Section 305(b), federal agencies are required to consult with the NMFS on activities that may affect EFH for species that are managed under fishery management plans.

The Project is located within Essential Fish Habitat for Coho salmon.

## Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) (16 U.S. Government Code [USC] 703) makes it unlawful to pursue, capture, kill, or possess or attempt to do the same to any migratory bird or part, nest, or egg of any such bird listed in wildlife protection treaties between the United States, Great Britain, Mexico, Japan, and the countries of the former Soviet Union, and authorizes the U.S. Secretary of the Interior to protect and regulate the taking of migratory birds. It establishes seasons and bag limits for hunted species and protects migratory birds, their occupied nests, and their eggs (16 USC 703; 50 CFR 10, 21).

## Clean Water Act

Section 404 of the Clean Water Act (CWA) requires that a permit be obtained from the U.S. Army Corps of Engineers (Corps) prior to the discharge of dredged or fill materials into any "waters of the United States or wetlands." Waters of the United States are broadly defined in the Corps regulations (33 CFR 328) to include navigable waterways, their tributaries, lakes, ponds, and wetlands. Wetlands are defined as "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that normally do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas" (Federal Register 1982). Wetlands that are not specifically exempt from Section 404 regulations (such as drainage channels excavated on dry land) are considered to be "jurisdictional wetlands." In a recent Supreme Court

Case, the Court acted to limit the regulatory jurisdiction of the Corps under Section 404 of the CWA as it applies to adjacent waters (USSC 2001). Specifically, the Court ruled that waters that are non-navigable, isolated, and intrastate are not subject to the Corps jurisdiction (Guzy and Anderson 2001). The Corps is required to consult with the USFWS, Environmental Protection Agency, and State Water Quality Control Board (among other agencies) in carrying out its discretionary authority under Section 404.

The Corps grants two types of permits, individual and nationwide. Project-specific individual permits are required for certain activities that may have a potential for more than a minimal impact and necessitate a detailed application. The most common type of permit is a nationwide permit. Nationwide permits authorize activities on a nationwide basis unless specifically limited, and are designed to regulate with little delay or paperwork certain activities having minimal impacts. Nationwide permits typically take two to three months to obtain whereas individual permits can take a year or more. To qualify for a nationwide permit, strict conditions must be met. If conditions are met, permittees may proceed with certain activities without notifying the Corps. Some nationwide permits require a 30-day pre-construction notification before activities can begin. Fill of certain isolated waters or wetlands that affect less than 0.5 acre of impact per project may be permitted with a pre-construction notification. Van Gordon and San Simeon Creeks would qualify as jurisdictional waters of the U.S. and State. If jurisdictional areas cannot be avoided, a Section 404 wetlands permit would be required.

Applicants for a federal license or permit for activities which may discharge to waters of the U.S. must seek Water Quality Certification from the state or Indian tribe with jurisdiction.[3] Such Certification is based on a finding that the discharge will meet water quality standards and other applicable requirements. In California, Regional Boards issue or deny Certification for discharges within their geographical jurisdiction. Water Quality Certification must be based on a finding that the proposed discharge will comply with water quality standards, which are defined as numeric and narrative objectives in each Regional Board's Basin Plan. Where applicable, the State Water Resources Control Board has this responsibility for projects affecting waters within the jurisdiction of multiple Regional Boards. The Regional Board's jurisdiction extends to all waters of the state and to all waters of the US, including wetlands.

Section 401 of the Clean Water Act requires that "any applicant for a federal permit for activities that involve a discharge to waters of the State, shall provide the federal permitting agency a certification from the State in which the discharge is proposed that states that the discharge will comply with the applicable provisions under the federal Clean Water Act." Therefore, before the Corps will issue a Section 404 Permit, applicants must apply for and receive a Section 401 water quality certification from the Regional Board. If avoidance is infeasible, then a 401 permit is required.

[3] Title 33, United States Code, Section 1341; Clean Water Act Section.

# STATE

## California Coastal Act §30000 et seq.

California Coastal Act Chapter 3 contains policies to protect water quality and the biological productivity of coastal waters (PRC Section 30231); avoid and minimize dredging, diking, and filling sediments (PRC Section 30233); and mitigate wetland impacts (PRC Section 30607.1). In addition, under the California Coastal Act an "environmentally sensitive area means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments" (PRC Section 30107.5).

The California Coastal Act requires that jurisdictions protect Environmentally Sensitive Habitat Areas (ESHA). Specifically, PRC Section 30240 states that:

a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

The Coastal Act generally protects ESHAs where they exist and also protects "against any significant disruption of habitat values." Coastal Act Section 30007.5 states that where there is a conflict between policies that it:

> *…be resolved in a manner, which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.*

The Project site is located within the Coastal Zone and adjacent to Hearst San Simeon State Park. San Simeon Creek and San Simeon Creek Lagoon, both ESHAs, traverse the Project site.

## California Endangered Species Act

State-listed threatened and endangered species are protected under provisions of the California Endangered Species Act (CESA). Activities that may result in "take" of individuals (defined in CESA as to "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") are regulated by the California Department of Fish and Wildlife (CDFW). Habitat degradation or modification is not included in the definition of "take" under CESA. Nonetheless,

CDFW has interpreted "take" to include the destruction of nesting, denning, or foraging habitat necessary to maintain a viable breeding population of protected species.

The State of California considers an endangered species as one whose prospects of survival and reproduction are in immediate jeopardy. A threatened species is considered as one present in such small numbers throughout its range that it is likely to become an endangered species in the near future in the absence of special protection or management. A rare species is one that is considered present in such small numbers throughout its range that it may become endangered if its present environment worsens. State threatened and endangered species are fully protected against take, as defined above.

The CDFW has also produced a species of special concern list to serve as a species watch list. Species on this list are either of limited distribution or their habitats have been reduced substantially, such that a threat to their populations may be imminent. Species of special concern may receive special attention during environmental review, but they do not have formal statutory protection.

## California Native Plant Society Rare or Endangered Plant Species

Vascular plants listed as rare or endangered by the California Native Plant Society (CNPS), but which have no designated status under state and federal endangered species legislation are defined as follows:

*California Rare Plant Rank*

1A- Plants Presumed Extirpated in California and either Rare or Extinct Elsewhere
1B- Plants Rare, Threatened, or Endangered in California and Elsewhere
2A- Plants Presumed Extirpated in California, But More Common Elsewhere
2B- Plants Rare, Threatened, or Endangered in California, But More Common Elsewhere
3- Plants about Which More Information is Needed - A Review List
4- Plants of Limited Distribution - A Watch List

*Threat Ranks*

.1- Seriously threatened in California (over 80% of occurrences threatened / high degree and immediacy of threat)
.2- Moderately threatened in California (20-80% occurrences threatened / moderate degree and immediacy of threat)
.3- Not very threatened in California (fewer than 20% of occurrences threatened / low degree and immediacy of threat or no current threats known)

## Fish and Game [Wildlife] Code Sections 3503, 3503.5, 3511, and 3513

The CDFW administers the California Fish and Game [Wildlife] Code (FGC). There are particular FGC sections that are applicable to natural resource management. For example, FGC Section 3503 makes it unlawful to destroy the nests or eggs of any birds that are protected under the MBTA. Furthermore, any birds in the orders Falconiformes or Strigiformes (Birds of Prey, such as hawks, eagles, and owls) are protected under FGC Section 3503.5, which makes it unlawful to take, possess, or destroy their nest or eggs. A consultation with CDFW will be required prior to the removal of any bird of prey nest that may occur on a project site. FGC Section 3511 lists fully protected bird species, where the CDFW is unable to authorize the issuance of permits or licenses to take these species. Examples of species that are State fully protected include golden eagle (*Aquila chrysaetos*), and white-tailed kite (*Elanus leucurus*). Section 3513 makes it unlawful to take or possess any migratory nongame bird as designated in the MBTA or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the MBTA.

## Lake and Streambed Alteration Program

California Fish and Game [Wildlife] Code Sections 1600-1616 establish a fee-based process to ensure that projects conducted in and around lakes, rivers, or streams do not adversely impact fish and wildlife resources, or, when adverse impacts cannot be avoided, ensures that adequate mitigation and/or compensation is provided.

Fish and Game [Wildlife] Code Section 1602 requires any person, state, or local governmental agency or public utility to notify the CDFW before beginning any activity that will do one or more of the following:

(1) substantially obstruct or divert the natural flow of a river, stream, or lake;
(2) substantially change or use any material from the bed, channel, or bank of a river, stream, or lake; or
(3) deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it can pass into a river, stream, or lake.

FGC Section 1602 applies to all perennial, intermittent, and ephemeral rivers, streams, and lakes in the state. CDFW's regulatory authority extends to include riparian habitat (including wetlands) supported by a river, stream, or lake regardless of the presence or absence of hydric soils and saturated soil conditions. Generally, the CDFW takes jurisdiction to the top of bank of the stream or to the outer limit of the adjacent riparian vegetation (outer drip line), whichever is greater. Notification is generally required for any project that will take place in or in the vicinity of a river, stream, lake, or their tributaries. This includes rivers or streams that flow at least periodically or permanently through a bed or channel with banks that support fish or other aquatic life and watercourses having a surface or subsurface flow that support or have supported riparian vegetation.

# LOCAL

## San Luis Obispo County General Plan

### LOCAL COASTAL PROGRAM (LCP) POLICY DOCUMENT

A. SENSITIVE HABITATS

Policy 1 Land Uses Within or Adjacent to Environmentally Sensitive Habitats. New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area.
[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CZLUO SECTIONS 23.07.170-178.]

Policy 2 Permit Requirement. As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat. This shall include an evaluation of the site prepared by a qualified professional, which provides:

a) the maximum feasible mitigation measures (where appropriate), and
b) a program for monitoring and evaluating the effectiveness of mitigation measures where appropriate.

[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CZLUO SECTION 23.07.170-178.]

Policy 3 Habitat Restoration. The county or Coastal Commission should require the restoration of damaged habitats as a condition of approval when feasible. Detailed wetlands restoration criteria are discussed in Policy 11.
[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CZLUO SECTION 23.07.170.]

B. WETLANDS

Policy 7 Protection of Environmentally Sensitive Habitats. Coastal wetlands are recognized as environmentally sensitive habitat areas. The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible, restored.
[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CZLUO SECTIONS 23.07.170-178.]

Policy 8 Principally Permitted Use. Principally permitted uses in wetlands are as follows: hunting, fishing and wildlife management; education and research projects.
[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CZLUO SECTIONS 23.07.170-172.]

Policy 13 Diking, Dredging or Filling of Wetlands. All diking, dredging and filling activities shall conform to the provisions of Section 30233, 30411 and 30607.1 of the Coastal Act. These policies establish the appropriate uses, criteria for evaluation of a project and requirements for restoration or replacement. Allowable activities within open coastal waters, wetlands (with the exception of Morro Bay and the Santa Maria River mouth), estuaries and lakes include:

e. Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

Diking, dredging, and filling for these types of development in wetlands, estuaries, coastal waters and lakes shall be permitted only where there is no feasible, less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental impacts, and where consistent with the maintenance of the tidal flow and continued biological viability of the wetland habitat. The development must meet the following conditions:

a. Diking, dredging and filling shall be prohibited in breeding and nursery areas and during periods of fish migration and spawning.
b. Diking, dredging and filling shall be limited to the smallest area feasible that is necessary to accomplish the project.
c. Designs for diking, dredging and filling and excavation projects shall include protective measures such as silt curtains, and weirs to protect water quality in adjacent areas during construction by preventing the discharge of refuse, petroleum spills and unnecessary dispersal of silt materials.

[THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO CZLUO SECTION 23.07.172.]

Policy 16 Adjacent Development. Development adjacent to coastal wetlands shall be sited and designed to prevent significant impacts to wetlands through noise, sediment or other disturbances. Development shall be located as far away from the wetland as feasible, consistent with other habitat values on the site.
[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CZLUO SECTION 23.07.172.]

Policy 17 Wetland Buffer. In new development, a buffer strip shall be required and maintained in natural condition along the periphery of all wetlands. This shall be a minimum of

100 feet in width measured from the upland extent of the wetland unless a more detailed requirement for a greater or lesser amount is included in the LUE or the LUO would allow for adjustment to recognize the constraints which the minimum buffer would impose upon existing subdivided lots.

If a project involves substantial improvements or increased human impacts, necessitating a wide buffer area, it shall be limited to utility lines, pipelines, drainage and flood control facilities, bridges and road approaches to bridges, and roads when it can be demonstrated that: a) alternative routes are infeasible or more environmentally damaging, and b) the adverse environmental effects are mitigated to the maximum extent feasible. Access paths and/or fences necessary to protect habitats may also be permitted.

The minimum buffer strip may be adjusted by the county if the minimum setback standard would render the parcel physically unusable for the principal permitted use. To allow a reduction in the minimum standard set-back, it must be found that the development cannot be designed to provide for the standard. When such reductions are permitted, the minimum standard shall be reduced to only the point at which the principal permitted use (development), modified as much as is practical from a design standpoint, can be accommodated. At no point shall this buffer be less than 25 feet. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CZLUO SECTION 23.07.172.]

Policy 18 Wetland Buffers Less than 100 Feet. For buffers less than 100 feet as established consistent with Policy 15 (above) mitigation measures to ensure wetland protection shall be required, and shall include (where applicable) vegetative screening, landscaping with native vegetation, drainage controls and other such measures.

When the minimum buffer strip is adjusted by the county, it shall be done on a case-by-case basis only after the investigation of the following factors:

a. Soil type and stability of development site, including susceptibility to erosion.
b. Slope of land adjacent to the wetland and the ability to use natural topographic features to locate development.
c. Types and amount of vegetation and its value as wildlife habitat including: 1) the biological significance of the adjacent lands in maintaining the functional capacity of the wetland, and 2) the sensitivity of the species to disturbance.
d. Type and intensity of proposed uses.
e. Lot size and configuration, and the location of existing development.

[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CZLUO SECTION 23.07.172.]

C. COASTAL STREAMS

Policy 20 Coastal Streams and Riparian Vegetation. Coastal streams and adjoining riparian vegetation are environmentally sensitive habitat areas and the natural hydrological system and ecological function of coastal streams shall be protected and preserved. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO CZLUO SECTION 23.07.174.]

Policy 21 Development in or Adjacent to a Coastal Stream. Development adjacent to or within the watershed (that portion within the coastal zone) shall be sited and designed to prevent impacts which would significantly degrade the coastal habitat and shall be compatible with the continuance of such habitat areas. This shall include evaluation of erosion and runoff concerns.
[THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO CZLUO SECTION 23.07.174.]

Policy 22 Fish and Game [Wildlife] Review of Streambed Alterations. Significant streambed alterations require the issuance of a California Department of Fish and Game [Wildlife] 1601-1603 agreement. The Department should provide guidelines on what constitutes significant streambed alterations so that the county and applicants are aware of what is considered a "significant" streambed alteration. In addition, streambed alterations may also require a permit from the U.S. Army Corp of Engineers.
[THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO CZLUO SECTION 23.07.174.]

Policy 23 County and State Review of Coastal Stream Projects. The State Water Resources Control Board and the County shall ensure that the beneficial use of coastal stream waters is protected, for projects over which it has jurisdiction. For projects which do not fall under the review of the State Water Resources Control Board, the County (in its review of public works and stream alterations) shall ensure that the quantity and quality surface water discharge from streams and rivers shall be maintained at levels necessary to sustain the functional capacity of streams, wetland, estuaries and lakes. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO CZLUO SECTION 23.07.174.]

Policy 25 Streambed Alterations, Channelizations, Dams or Other Substantial Alterations of Rivers and Streams shall be limited to: a) necessary water supply projects, b) flood control projects when there are no other feasible methods for protecting existing structures in the flood plain and where such protection is necessary for public safety or to protect existing development, and c) development where the purpose is to improve fish and wildlife habitat. All projects must employ the best feasible

mitigation measures. Maintenance and flood control facilities shall require a coastal development permit.
[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CZLUO SECTION 23.07.174.]

Policy 26 Riparian Vegetation. Cutting or alteration of naturally occurring vegetation that protects riparian habitat is not permitted except for permitted streambed alterations (defined in Policy 23) and where no feasible alternative exists or an issue of public safety exists. This policy does not apply to agricultural use of land where expanding vegetation is encroaching on established agricultural uses. Minor incidental public works project may also be permitted where no feasible alternative exists including but not limited to utility lines, pipelines, driveways and roads. Riparian vegetation shall not be removed to increase agricultural acreage unless it is demonstrated that no impairment of the functional capacity of the habitat will occur. Where permitted, such actions must not cause significant stream bank erosion, have a detrimental effect on water quality or quantity, or impair the wildlife habitat values of the area. This must be in accordance with the necessary permits required by Sections 1601 and 1603 of the California Fish and Game [Wildlife] Code.
[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CZLUO SECTION 23.07.174.]

Policy 27 Stream Diversion Structures. Stream diversion structures on streams appearing as dotted or dash lines on the largest scale U.S.G.S. quadrangle maps shall be sited and designed to not impede up and downstream movement of native fish or to reduce stream flows to a level which would significantly affect the biological productivity of the fish and other stream organisms.
[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CZLUO SECTION 23.07.174.]

Policy 28 Buffer Zone for Riparian Habitats. In rural areas (outside the URL) a buffer setback zone of 100 feet shall be established between any new development (including new agricultural development) and the upland edge of riparian habitats. In urban areas this minimum standard shall be 50 feet except where a lesser buffer is specifically permitted. The buffer zone shall be maintained in natural condition along the periphery of all streams. Permitted uses within the buffer strip shall be limited to passive recreational, educational or existing nonstructural agricultural developments in accordance with adopted best management practices. Other uses that may be found appropriate are limited to utility lines, pipelines, drainage and flood control facilities, bridges and road approaches to bridges to cross a stream and roads when it can be demonstrated that: 1) alternative routes are infeasible or more environmentally damaging and 2) adverse environmental effects are mitigated to the maximum extent feasible. Lesser setbacks on existing parcels may be permitted if application of the

minimum setback standard would render the parcel physically unusable for the principal permitted use. In allowing a reduction in the minimum setbacks, they shall be reduced only to the point at which a principal permitted use (as modified as much as is practical from a design standpoint) can be accommodated.
[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CZLUO SECTION 23.07.174.]

D. TERRESTRIAL ENVIRONMENTS

Policy 29 Protection of Terrestrial Habitats. Designated plant and wildlife habitats are environmentally sensitive habitat areas and emphasis for protection should be placed on the entire ecological community. Only uses dependent on the resource shall be permitted within the identified sensitive habitat portion of the site. Development adjacent to environmentally sensitive habitat areas and holdings of the State Department of Parks and Recreation shall be sited and designed to prevent impacts that would significantly degrade such areas and shall be compatible with the continuance of such habitat areas.
[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CZLUO SECTION 23.07.176.]

Policy 30 Protection of Native Vegetation. Native trees and plant cover shall be protected wherever possible. Native plants shall be used where vegetation is removed.
[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CZLUO SECTION 23.07.176.]

Policy 35 Protection of Vegetation. Vegetation which is rare or endangered or serves as cover for endangered wildlife shall be protected against any significant disruption of habitat value. All development shall be designed to disturb the minimum amount possible of wildlife or plant habitat.
[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CZLUO SECTION 23.07.176.]

Refer to Section 5.6, *Land Use and Planning*, for further discussion concerning the Project's consistency with these policies.

## North Coast Area Plan (NCAP)

### NCAP Combining Designations

Combining Designations are special overlay land use categories applied in areas of the County with significant natural resources, including sensitive resource areas (SRA) and environmentally sensitive habitat [area] (ESHA). Combining Designations and ESHA overlays assigned to North

Coast areas are illustrated on the *Coastal Zone North Coast Planning Area Rural Combining Designation Map*. As shown on the Combining Designation Map, portions of the Project site are assigned the following overlays:

- Sensitive Resource Area (SRA);
- Environmentally Sensitive Habitat [Area] (ESHA)
  - Terrestrial Habitat (ESHA-TH);
  - Coastal Creeks (ESHA-CC); and
- Local Coastal Program (LCP).

The Combining Designations assigned to the Project site are also illustrated on the *San Luis Obispo County Permit View Maps*[4] and further described below, according to NCAP Chapter 6 (pages 6-2 to 6-3).

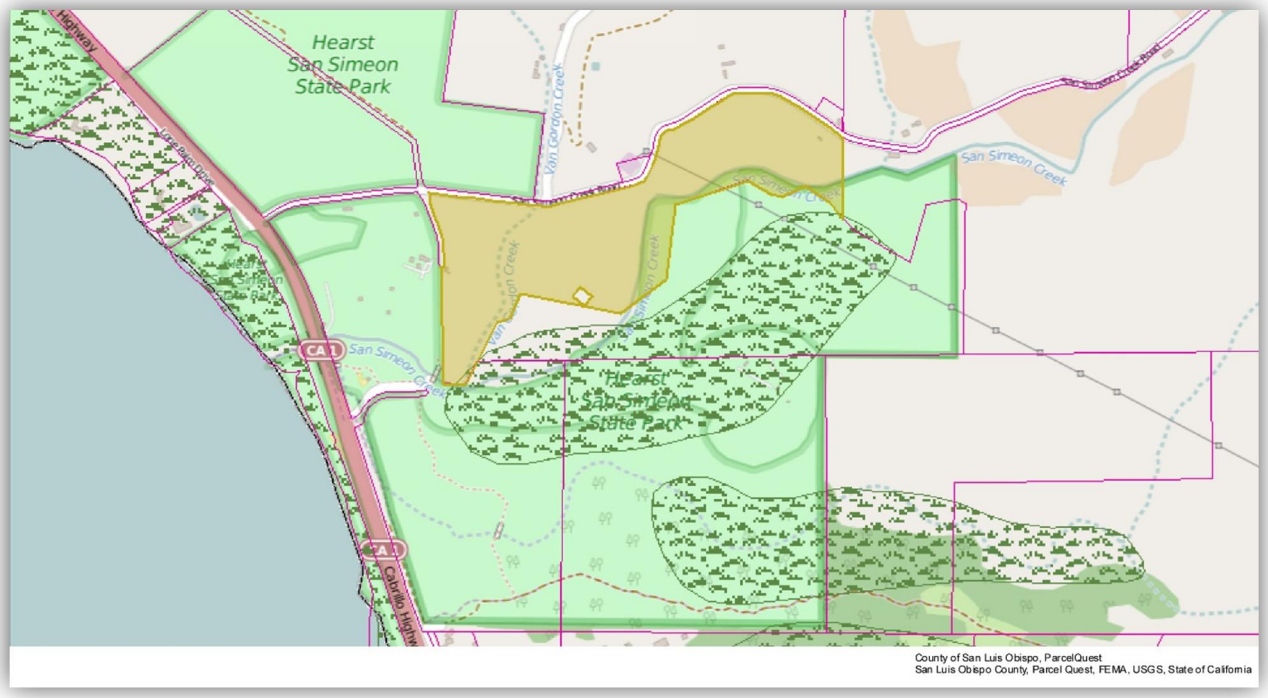
**Sensitive Resource Area (SRA).** The SRA Combining Designation is applied to identify areas with special environmental qualities, or areas containing unique or endangered vegetation or habitat resources. SRAs include ESHA (i.e., streams, riparian vegetation, wetlands, and terrestrial habitat). As shown on the Permit View Combining Designation – SRA Map below, the extreme southeast and southwest corners of the Project are designated SRA. This SRA designation is associated with the Monterey Pine Forest that exists south of the Project site; refer also to the *Terrestrial Habitat (ESHA-TH)* Section below. The Project development footprint does not extend into this Monterey pine forest SRA. Therefore, no further analysis of this Monterey pine forest SRA is required.

Although not specifically shown on the Permit View Combining Designation – SRA Map above, SRA includes ESHA (streams, riparian vegetation, and wetlands), which are present on the Project site; refer to the *Coastal Creeks* (ESHA-CC) and *San Simeon Creek Lagoon* (SRA) Sections, which follow.

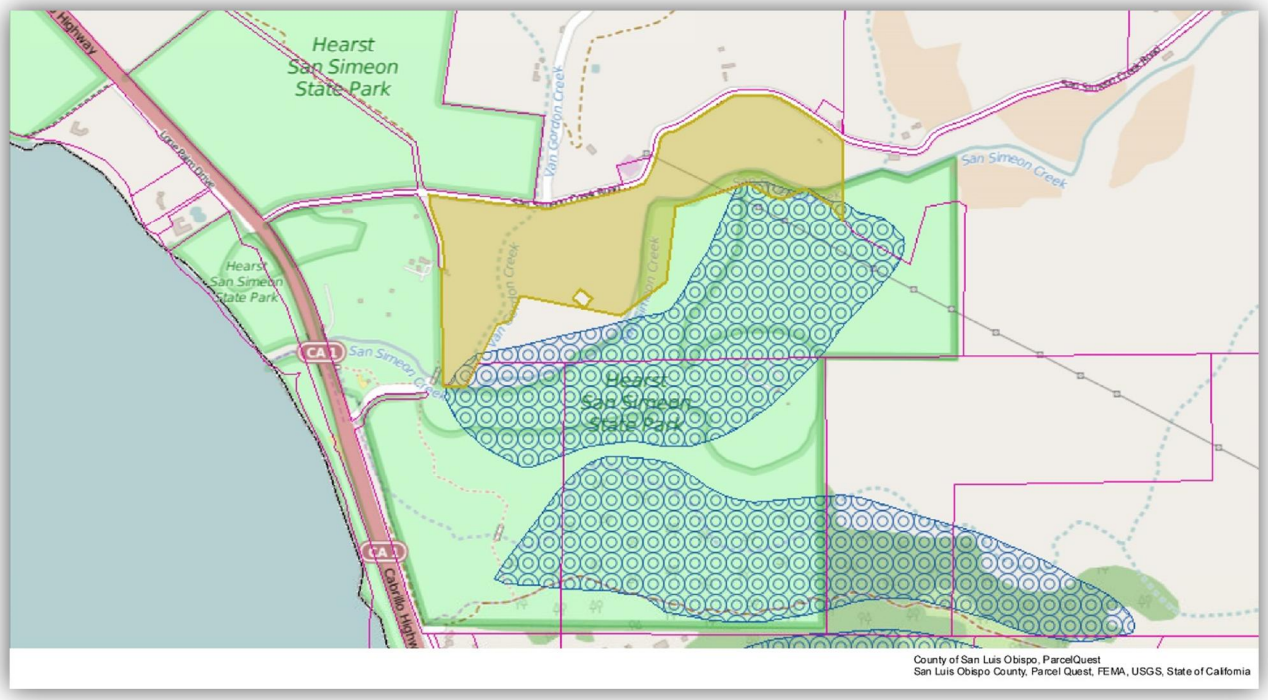
**Terrestrial Habitat (ESHA)(TH).** Monterey pine forest occurs in only three areas of its native California. The southernmost stand in California is the 2,500 acres surrounding Cambria, with another isolated 500 acres at Pico Creek. Due to genetic variations found in these stands that protect some trees from pine pitch canker, these stands are extremely important as a "gene pool." As shown in the Permit View Coastal Zone – Terrestrial Habitat Map below, the Project site's extreme southeast and southwest corners are designated ESHA-TH. This ESHA-TH designation is associated with the Monterey pine forest that exists south of the Project site. The Project development footprint does not extend into this Monterey pine forest ESHA-TH. Therefore, no further analysis of this ESHA-TH is required.

[4] San Luis Obispo County Website, *Permit View Maps*, http://www.sloplanning.org/PermitView/MapSearch, Accessed October 27, 2015.

## Permit View Combining Designation – SRA Map

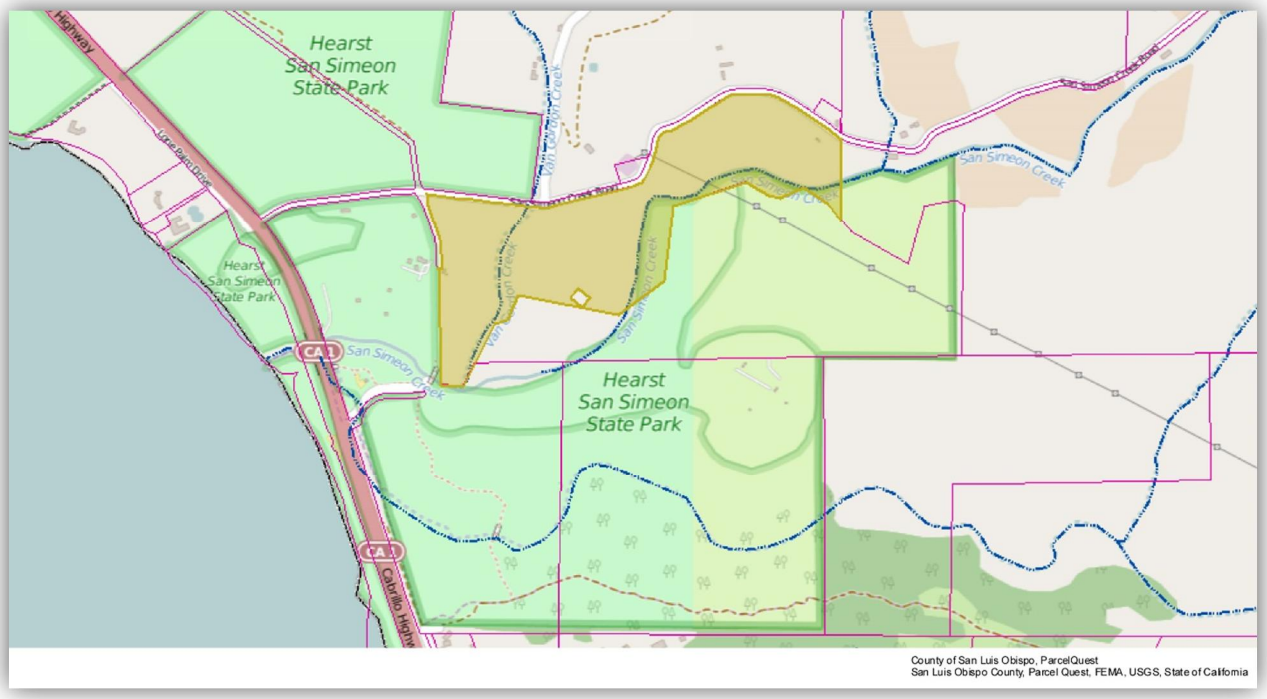



## Permit View Coastal Zone – Terrestrial Habitat Map



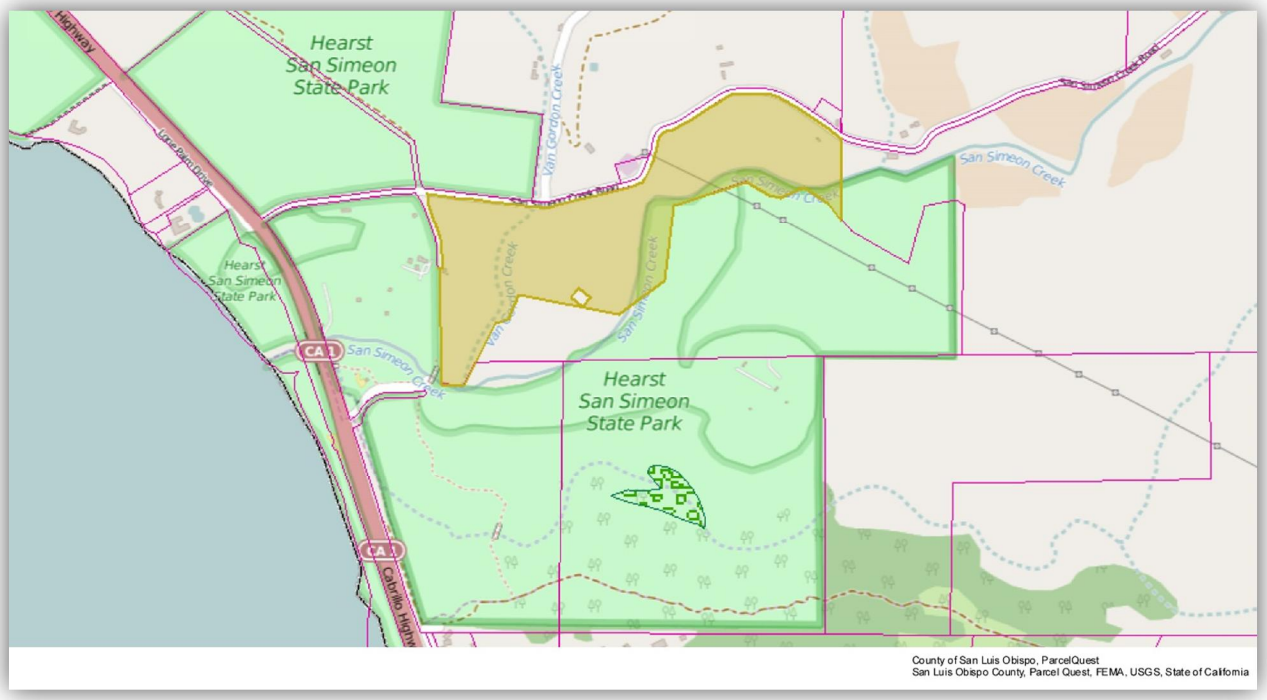
**Coastal Creeks (ESHA-CC).** According to the NCAP, portions of San Simeon Creek are anadromous fish streams, which should be protected from impediments to steelhead migration and spawning. Important wildlife habitat is provided within the adjacent riparian and wetland areas. Ground and surface waters are linked, and maintenance of creek habitats is essential to protect many coastal resources. Coastal creeks support a number of declining species, such as the tidewater goby, two-striped garter snake, western pond turtle, red-legged frog, and steelhead trout. As shown in the Permit View Coastal Zone – Coastal Creeks Map below, two coastal creeks, San Simeon Creek and Van Gordon Creek, traverse the Project site.

**Permit View Coastal Zone – Coastal Creeks Map**

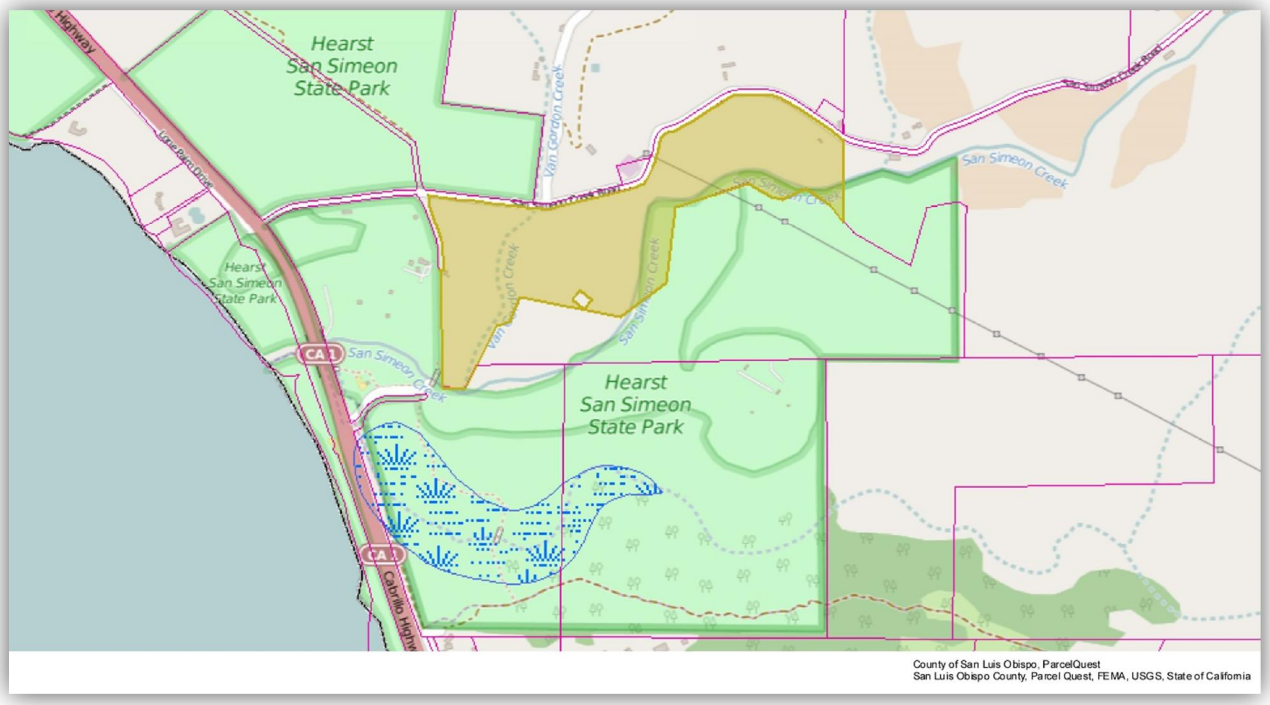



Although not specifically mapped on the Permit View Coastal Zone – Riparian Vegetation Map or Permit View Coastal Zone – Wetland Map that follow, respectively, both riparian vegetation and wetlands are present on the Project site. Local Coastal Program Central Coast Arroyo Willow Riparian Forest exists along both creek corridors, as illustrated on Exhibit 5.3-1, *Vegetation Map*. Additionally, jurisdictional riparian vegetation and wetlands are present within the Project site, as illustrated on Exhibit 5.3-2, *Corps/Regional Board Jurisdictional Map*, Exhibit 5.3-3, *CDFW Jurisdictional Map*, and Exhibit 5.3-4, *CCC Jurisdictional Map.*

## Permit View Coastal Zone – Riparian Vegetation Map




## Permit Coastal Zone – Wetland Map



**Local Coastal Program (LCP).** The LCP designation identifies specific programs to ensure coastal resources are protected in accordance with LCP policies. The Coastal Zone encompasses all lands within the NC Planning Area, where the Project site is located.

**San Simeon Creek Lagoon (SRA).** The NCAP describes this SRA as being located within San Simeon State Beach and composed of several biotic communities including salt and freshwater marshes, grasslands, Monterey pine forest, and estuarine habitat. The lagoon supports steelhead trout and other fish species. Numerous bird species have been reported at the lagoon and in adjacent areas, making the area a major waterfowl feeding and nesting site. Neither the *Coastal Zone North Coast Planning Area Rural Combining Designation Map* nor the *Permit View Combining Designation SRA Map* illustrate the San Simeon Creek Lagoon. However, as illustrated on Exhibit 5.3-1, *Vegetation Map*, a small section of the San Simeon Creek Lagoon (approximately the uppermost 230 feet) is located within the Project site; the remaining downstream portion continues offsite to the west onto San Simeon State Beach. The Project development footprint does not extend into the San Simeon Creek Lagoon SRA.

**NCAP Standards**

Refer to Appendix B, *NCAP Combining Designations and Standards*, for a list of NCAP standards. NCAP Standards Sensitive Resource Area (SRA) 10 and Monterey Pine Forest SRA-14 are relevant to the Project.

## COASTAL ZONE LAND USE ORDINANCE (CZLUO)

**CZLUO Section 23.07.160 (Sensitive Resource Area (SRA))**. The SRA Combining Designation is applied by the Official Maps (Part III) of the Land Use Element to identify areas with special environmental qualities, or areas containing unique or endangered vegetation or habitat resources. The SRA requirements relevant to the Project are addressed in the CZLUO sections addressed below. Refer to the *North Coast Area Plan (NCAP) - NCAP Combining Designations* Section below for further discussion concerning Combining Designation overlays, including the SRA Combining Designation.

**CZLUO Section 23.07.170 (Environmentally Sensitive Habitats)**. The provisions of this section apply to development proposed within or adjacent to (within 100 feet of the boundary of) an Environmentally Sensitive Habitat as defined by Chapter 23.11 of this title.

a. Application content. A land use permit application for a project on a site located within or adjacent to an Environmentally Sensitive Habitat shall also include a report by a biologist approved by the Environmental Coordinator that satisfies the requirements specified in CZLUO Section 23.07.170(a)(1) to (6).

b. Required findings: Approval of a land use permit for a project within or adjacent to an Environmentally Sensitive Habitat shall not occur unless the applicable review body first finds that:

(1) There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.
(2) The proposed use will not significantly disrupt the habitat.

c. Land divisions: No division of a parcel containing an Environmentally Sensitive Habitat shall be permitted . . .

d. Alternatives analysis required. Construction of new, improved, or expanded roads, bridges and other crossings will only be allowed within required setbacks after an alternatives analysis has been completed. The alternatives analysis shall examine at least two other feasible locations with the goal of locating the least environmentally damaging alternative. When the alternatives analysis concludes that a feasible and less environmentally damaging alternative does not exist, the bridge or road may be allowed in the proposed location when accompanied by all feasible mitigation measures to avoid and/or minimize adverse environmental effects. If however, the alternatives analysis concludes that a feasible and less environmentally damaging alternative does exist, that alternative shall be used and any existing bridge or road within the setback shall be removed and the total area of disturbance restored to natural topography and vegetation.

e. Development standards for environmentally sensitive habitats. All development and land divisions within or adjacent to an Environmentally Sensitive Habitat Area shall be designed and located in a manner which avoids any significant disruption or degradation of habitat values. This standard requires that any project which has the potential to cause significant adverse impacts to an ESHA be redesigned or relocated so as to avoid the impact, or reduce the impact to a less than significant level where complete avoidance is not possible.

(1) Development within an ESHA. In those cases where development within the ESHA cannot be avoided, the development shall be modified as necessary so that it is the least environmentally damaging feasible alternative. Development shall be consistent with the biological continuance of the habitat. Circumstances in which a development project would be allowable within an ESHA include:

i. Resource dependent uses. New development within the habitat shall be limited to those uses that are dependent upon the resource.
ii. Coastal accessways. Public access easements …..
iii. Incidental public services and utilities in wetlands. Essential incidental public services and utilities pursuant to ESHA Policy 13 and CZLUO Section 23.07.172(e).

iv. Habitat creation and enhancement. Where the project results in an unavoidable loss (i.e., temporary or permanent conversion) of habitat area, replacement habitat and/or habitat enhancements shall be provided and maintained by the project applicant. Plans for the creation of new habitat, or the enhancement of existing habitat, shall consider the recommendations of the California Coastal Commission, the California Department of Fish and Game [Wildlife] and/or U.S. Fish and Wildlife Service. Generally, replacement habitat must be provided at recognized ratios to successfully reestablish the habitat at its previous size, or as is deemed appropriate in the particular biologic assessment(s) for the impacted site. Replacement and/or enhanced habitat, whenever feasible, shall be of the same type as is lost ("same-kind") and within the same biome ("same-system"), and shall be permanently protected by a deed restriction or conservation easement.

v. Restoration of damaged habitats. Restoration or management measure required to protect the resource. Projects located within or adjacent to environmentally sensitive habitat areas that have been damaged shall be conditioned to require the restoration, monitoring, and long-term protection of such habitat areas through a restoration plan and an accompanying deed restriction or conservation easement. Where previously disturbed but restorable habitat for rare and sensitive plant and animal species exists on a site that is surrounded by other environmentally sensitive habitat areas, these areas shall be delineated and considered for restoration as recommended by a restoration plan.

(2) Development in ESHA to avoid a taking. If development in an ESHA must be allowed to avoid an unconstitutional taking . . .

(3) Steelhead stream protection: net loss stream diversions prohibited. Diversions of surface and subsurface water will not be allowed where a significant adverse impact on the steelhead run, either individually or cumulatively, would result.

Diversion dams, water supply wells which tap the subflow, and similar water supply facilities which could significantly harm the steelhead run in any of these streams shall not be allowed.

Exceptions may be considered only where the impact cannot be avoided, is fully mitigated and no significant disruption would result. Techniques for impact avoidance include:

i. Limiting diversions. Limiting diversions to peak winter flows exceeding the amount needed to maintain the steelhead runs, with off-stream storage where year-round water supplies are desired.

ii. Protecting water quality. Treating diverted water after use, and returning it to the watershed of origin in like quantities and qualities; and

iii. Supplementing flows. Supplementing stream flows with water imported from sources that do not exacerbate impacts on steelhead or salmon runs elsewhere.

(4) Other prohibited uses. Prohibited development activities include:

i. Placement of barriers to fish. In-stream barriers to sensitive freshwater . . .

ii. Destruction of rearing habitats. Development which would cause loss of spawning or rearing habitat through flooding, siltation or similar impacts.

iii. Disturbance or removal of native riparian vegetation on the banks of streams. Locations constituting an exception to this requirement are:

a. In-between stream banks when essential for flood control purposes and no less environmentally damaging alternative is available to protect existing structures;

b. On roads, trails, or public utility crossings where vegetation removal cannot be avoided, and where there is no feasible alternative and no significant disruption would result; and

c. For native habitat restoration and protection projects.

iv. Interference with fish migration. Any other development activity that would raise overall stream temperatures to unfavorable levels, or that would interfere with normal fish migration and movement within the stream.

v. Breaching. Breaching of the beach berm . . .

(5) Grading adjacent to Environmentally Sensitive Habitats shall conform to the provisions of Section 23.05.034c (Grading Standards).

(6) The use of invasive plant species is prohibited.

**CZLUO Section 23.07.172 (Wetlands)**. Development proposed within or adjacent to (within 100 feet of the upland extent of) a wetland area shown on the Environmentally Sensitive Habitat Maps shall satisfy the requirements of this section to enable issuance of a land use or construction permit. These provisions are intended to maintain the natural ecological functioning and productivity of wetlands and estuaries and where feasible, to support restoration of degraded wetlands.

a. Location of development: Development shall be located as far away from the wetland as feasible, provided that other habitat values on the site are not thereby more adversely affected.

b. Principle Permitted Uses in wetlands: Hunting, fishing, wildlife management, education and research projects.

c. Department of Fish and Game [Wildlife] review: The State Department of Fish and Game [Wildlife] shall review all applications for development in or adjacent to coastal wetlands

and recommend appropriate mitigation measures where needed which should be incorporated in the project design.

d. Wetland setbacks: New development shall be located a minimum of 100 feet from the upland extent of all wetlands, except as provided by subsection d(2). If the biological report required by Section 23.07.170 (Application Content) determines that such setback will provide an insufficient buffer from the wetland area, and the applicable approval body cannot make the finding required by Section 23.07.170b, then a greater setback may be required.

(1) Permitted uses within wetland setbacks: Within the required setback buffer, permitted uses are limited to passive recreation, educational, existing non-structural agricultural development in accordance with best management practices, utility lines, pipelines, drainage and flood control of facilities, bridges and road approaches to bridges to cross a stream and roads when it can be demonstrated that:

i. Alternative routes are infeasible or more environmentally damaging.
ii. Adverse environmental effects are mitigated to the maximum extent feasible.

(2) Wetland setback adjustment: The minimum wetland setback may be adjusted through Minor Use Permit approval (but in no case shall be less than 25 feet), provided that the following findings can be made:

i. The site would be physically unusable for the principal permitted use unless the setback is reduced.
ii. The reduction is the minimum that would enable a principal permitted use to be established on the site after all practical design modifications have been considered.
iii. That the adjustment would not allow the proposed development to locate closer to the wetland than allowed by using the stringline setback method pursuant to Section 23.04.118a of this title.

(3) Requirements for wetland setback adjustment: Setbacks established that are less than 100 feet consistent with this section shall include mitigation measures to ensure wetland protection. Where applicable, they shall include landscaping, screening with native vegetation and drainage controls….

e. Site development standards:

(1) Diking, dredging, or filling of wetlands: Diking, dredging, or filling activities in wetland areas under county jurisdiction shall be allowed only to the extent that they are consistent with Environmentally Sensitive Habitats Policy 13 of the San Luis

Obispo County Coastal Plan Policies, and shall not be conducted without the property owner first securing approval of all permits required by this title. Mineral extraction is not an allowed use in a wetland.

(2) Vehicle traffic: Vehicle traffic from public roads shall be prevented from entering wetlands by vehicular barriers, except where a coastal accessway is constructed and designated parking and travel lanes are provided consistent with this title. The type of barrier and its proposed location shall be identified in the materials accompanying an application for a land use permit and must be approved by the Planning Director before permit issuance to insure that it will not restrict local and state agencies or the property owner from completing the actions necessary to accomplish a permitted use within the wetland.

(3) Open space easement required: A land use or construction permit for a structure larger than 1000 square feet in floor area shall not be approved on a parcel of one acre or larger that contains a wetland, unless the property owner first grants the county or an approved land trust an open space easement or fee title dedication of all portions of the site not proposed for development, as well as the entire wetland.

**CZLUO Section 23.07.174 (Streams and Riparian Vegetation)**. Coastal streams and adjacent riparian areas are environmentally sensitive habitats. The provisions of this section are intended to preserve and protect the natural hydrological system and ecological functions of coastal streams.

a. Development adjacent to a coastal stream. Development adjacent to a coastal stream shall be sited and designed to protect the habitat and shall be compatible with the continuance of such habitat.

b. Limitation on streambed alteration: Channelization, dams or other substantial alteration of stream channels are limited to:

(1) Necessary water supply projects, provided that quantity and quality of water from streams shall be maintained at levels necessary to sustain functional capacity of streams, wetlands, estuaries and lakes. A "necessary" water project is a project that is essential to protecting and/or maintaining public drinking water supplies, or to accommodate a principally permitted use as shown on Coastal Table "O" where there are no feasible alternatives.
(2) Flood control projects, including maintenance of existing flood control channels, where such protection is necessary for public safety or to protect existing commercial or residential structures, when no feasible alternative to streambed alteration is available;
(3) Construction of improvements to fish and wildlife habitat;

(4) Streambed alterations shall not be conducted unless all applicable provisions of this title are met and if applicable, permit approval from the California Department of Fish and Game [Wildlife], the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and California State Water Resources Control Board.

In addition, every streambed alteration conducted pursuant to this title shall employ the best mitigation measures where feasible, including but not limited to:

a. Avoiding the construction of hard bottoms;
b. Using box culverts with natural beds rather than closed culverts to provide for better wildlife movement; and
c. Pursuing directional drilling for pipes, cables, and conduits to avoid surface streambed disturbance.

c. Stream diversion structures: Structures that divert all or a portion of streamflow for any purpose, except for agricultural stock ponds with a capacity less than 10 acre-feet, shall be designed and located to not impede the movement of native fish or to reduce streamflow to a level that would significantly affect the production of fish and other stream organisms.

d. Riparian setbacks: New development shall be setback from the upland edge of riparian vegetation the maximum amount feasible. In the urban areas (inside the URL) this setback shall be a minimum of 50 feet. In the rural areas (outside the URL) this setback shall be a minimum of 100 feet. A larger setback will be preferable in both the urban and rural areas depending on parcel configuration, slope, vegetation types, habitat quality, water quality, and any other environmental consideration. These setback requirements do not apply to non-structural agricultural developments that incorporate adopted nest management practices in accordance with LUP Policy 26 for Environmentally Sensitive Habitats.

(1) Permitted uses within the setback: Permitted uses are limited to those specified in Section 23.07.172d(1) (for wetland setbacks), provided that the findings required by that section can be made. Additional permitted uses that are not required to satisfy those findings include pedestrian and equestrian trails, and non-structural agricultural uses.

All permitted development in or adjacent to streams, wetlands, and other aquatic habitats shall be designed and/or conditioned to prevent loss or disruption of the habitat, protect water quality, and maintain or enhance (when feasible) biological productivity. Design measures to be provided include, but are not limited to:

i. Flood control and other necessary instream work should be implemented in a manner than minimizes disturbance of natural drainage courses and vegetation.

ii. Drainage control methods should be incorporated into projects in a manner that prevents erosion, sedimentation, and the discharge of harmful substances into aquatic habitats during and after construction.

(2) Riparian habitat setback adjustment: The minimum riparian setback may be adjusted through Minor Use Permit approval, but in no case shall structures be allowed closer than 10 feet from a stream bank, and provided the following findings can first be made:

i. Alternative locations and routes are infeasible or more environmentally damaging; and
ii. Adverse environmental effects are mitigated to the maximum extent feasible;
iii. The adjustment is necessary to allow a principal permitted use of the property and redesign of the proposed development would not allow the use with the standard setbacks; and
iv. The adjustment is the minimum that would allow for the establishment of a principal permitted use.

e. Alteration of riparian vegetation: Cutting or alteration of natural riparian vegetation that functions as a portion of, or protects, a riparian habitat shall not be permitted except:

1. For streambed alterations allowed by subsections a and b above;

2. Where an issue of public safety exists;

3. Where expanding vegetation is encroaching on established agricultural uses;

4. Minor public works projects, including but not limited to utility lines, pipelines, driveways and roads, where the Planning Director determines no feasible alternative exists;

5. To increase agricultural acreage provided that such vegetation clearance will:

i. Not impair the functional capacity of the habitat;
ii. Not cause significant streambank erosion;
iii. Not have a detrimental effect on water quality or quantity;
iv. Be in accordance with applicable permits required by the Department of Fish and Game [Wildlife].

(6) To locate a principally permitted use on an existing lot of record where no feasible alternative exists and the findings of Section 23.07.174d(2) can be made.

**CZLUO Section 23.07.176 (Terrestrial Habitat Protection)**. The provisions of this section are intended to preserve and protect rare and endangered species of terrestrial plants and animals by preserving their habitats. Emphasis for protection is on the entire ecological community rather than only the identified plant or animal.

### Emergency Coastal Development Permit (E-CDP) Conditions

Refer to Appendix C, *E-CDP Conditions of Approval*, for a list of E-CDP Conditions. E-CDP Conditions 6B, 6C, and 6F, and 12 to 23 pertain to the Project.

## 5.3.3 SUMMARY OF WATER MASTER PLAN PEIR CONCLUSIONS

WMP PEIR Section 5.6, *Biological Resources*, analyzes impacts in regards to biological conditions, as summarized below:

**Construction-Related Impact.** Construction-related activities associated with the WMP improvements could impact sensitive plant and wildlife species. Overall, construction-related impacts regarding habitat loss and sensitive species are considered potentially significant. Future improvements would be subject to compliance with State and Federal regulatory policies and requirements, as well as relevant NCAP standards. In addition, mitigation measures are recommended to conduct surveys for sensitive wildlife and marine species. A future project specific EIR/EIS would need to further determine the potential construction-related impacts to biological resources. Analysis has concluded that impacts would be reduced to less than significant following compliance with the SLO County Code and NCAP standards, and State and federal regulatory requirements, and implementation of the recommended mitigation.

**Sensitive Plant and Wildlife Species.** Implementation of the WMP improvements could impact sensitive plant and wildlife species. It is not anticipated that the implementation of WMP components at existing water facilities (i.e., the WWTP) would significantly impact sensitive plant and wildlife species, since operational activities would be contained within existing developed/disturbed sites. In addition, pipelines would be underground and therefore would not result in impacts to sensitive plant and wildlife species. Implementation of the WMP would be subject to compliance with relevant NCAP standards, which would reduce potential impacts to biological resources. Analysis concluded that the impacts would be reduced to less than significant following compliance with SLO County, State and federal regulatory requirements and implementation of the recommended mitigation.

**Sensitive Habitats and Resource Areas.** Implementation of the WMP could adversely impact a riparian habitat or other sensitive natural community. It is not anticipated that implementation of the WMP at existing water facilities would significantly impact sensitive habitats and/or

sensitive resource areas, since operational activities would be contained within existing disturbed/developed sites. In addition, proposed pipelines would be underground and would not result in any impacts to sensitive habitats and/or sensitive resource areas within the project area. Analysis has concluded that impacts would be reduced to less than significant with implementation of the recommended mitigation and compliance with the NCAP and CZLUO standards.

**Jurisdictional Waters or Resources.** The Jurisdictional Waters of the U.S. that occur in Cambria include the San Simeon Creek, Van Gordon Creek, associated intermittent drainages, wetlands, and the Pacific Ocean. Implementation of the WMP improvements could impact wetlands or other jurisdictional waters of the U.S. The U.S. Army Corps of Engineers must authorize construction features expected to adversely affect these features. If construction activities result in fill, Section 401 Water Quality Certification would be needed from the Regional Water Quality Control Board. If construction activities were expected to alter, or otherwise adversely affect any regulated streambed or associated vegetation, a Streambed Alteration Agreement would be required from the CDFW. Analysis has concluded that impacts would be reduced to less than significant following compliance with federal, State, and SLO County regulatory requirements, and implementation of the recommended mitigation. Further review may be necessary on a project-by-project basis to evaluate site-specific impacts to jurisdictional waters and resources.

**Wildlife Corridors.** Implementation of the WMP improvements could interfere with established wildlife corridors. It is not anticipated that implementation of the project components at existing water facilities would significantly impact wildlife networks, since operational activities would be contained within existing developed sites. San Simeon Creek and Van Gordon Creek are both considered potential migration routes, and their disturbance would be considered a significant impact unless mitigated. Mitigation is recommended requiring that conceptual pipeline layouts be refined further to avoid impacting creek corridors to existing paved street areas and the use of trenchless construction techniques, where feasible. Analysis has concluded that impacts would be reduced to less than significant following implementation of mitigation measures and compliance with SLO County regulatory requirements. A future project specific EIR/EIS would need to further determine potential impacts to wildlife corridors.

**Cambria Forest Management Plan.** Implementation of the WMP could conflict with the provisions of the Cambria Forest Management Plan. It is not anticipated that the implementation of the WMP components would conflict with the Cambria Forest Management Plan, as many operational activities would be contained within existing developed sites. Specific impacts to native Monterey pine and coast live oak forest would be dependent upon final improvement plans. Future improvements would be subject to compliance with the NCAP, CZLUO, and State and federal regulatory policies and requirements. Analysis has concluded that impacts would be reduced to less than significant with the implementation of the recommended mitigation and compliance with the NCAP and CZLUO.

# 5.3.4 IMPACT THRESHOLDS AND SIGNIFICANCE CRITERIA

## CEQA SIGNIFICANCE CRITERIA

The issues presented in the Initial Study Environmental Checklist (CEQA Guidelines Appendix G) have been utilized as thresholds of significance in this Section. Accordingly, biological resources impacts resulting from Project implementation may be considered significant if they would result in the following:

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS;

- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the CDFW or USFWS;

- Have a substantial adverse effect on federally protected wetlands as defined by CWA Section 404 (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;

- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites;

- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; and/or

- Conflict with provisions of an adopted HCP, NCCP, or other approved local, regional, or state habitat conservation plan; refer to Section 8.0, *Effects Found Not To Be Significant*.

*CEQA Guidelines* Section 15065(a), *Mandatory Findings of Significance*, states that a project may have a significant effect on the environment if it would have "... the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of an endangered, rare or threatened species ..."

An evaluation of whether an impact on biological resources would be substantial must consider both the resource itself and how that resource fits into a regional or local context. Substantial

impacts would be those that would substantially diminish, or result in the loss of, an important biological resource or those that would obviously conflict with local, state, or federal resource conservation plans, goals, or regulations. Impacts are sometimes locally adverse but not significant because, although they would result in an adverse alteration of existing conditions, they would not substantially diminish or result in the permanent loss of an important resource on a population- or region-wide basis.

*CEQA Guidelines* Section 15380, *Endangered, Rare or Threatened Species*, states that a lead agency can consider a non-listed species to be Rare, Threatened, or Endangered for the purposes of CEQA, if the species can be shown to meet the criteria in the definition of Rare, Threatened, or Endangered. For the purposes of this discussion, the current scientific knowledge on the population size and distribution for each special-status species was considered according to the definitions for Rare, Threatened, and Endangered listed in *CEQA Guidelines* Section 15380.

## 5.3.5 IMPACTS AND MITIGATION MEASURES

As discussed in detail in Section 5.0, *Environmental Analysis*, for purposes of the following impact analyses, "Sustainable Water Facility" (SWF) involves the built and operational Project components, whereas "Mitigation Measures (Project modifications)" involve proposed Project modifications in compliance various SWF mitigation measures.

### IMPACT 5.3-1 SPECIAL-STATUS PLANT AND WILDLIFE SPECIES

- **WOULD THE PROJECT HAVE A SUBSTANTIAL ADVERSE EFFECT, EITHER DIRECTLY OR THROUGH HABITAT MODIFICATIONS, ON ANY SPECIES IDENTIFIED AS A CANDIDATE, SENSITIVE, OR SPECIAL-STATUS SPECIES?**

**Impact Analysis:**

**Listed Plant Species**

No federally or State listed plant species occur or have the potential to occur on the Project site. Therefore, the Project (SWF and Project modifications) would result in no impact in this regard.

**Special-Status Plant Species**

**Survey Results.** Three special-status plant species were identified during a CNDDB and CNPS search as potentially occurring in the area: compact cobwebby thistle; Jones' layia; and Monterey pine. Compact cobwebby thistle was identified during surveys in 1991 approximately 0.5 mile northwest of the Project site. Jones' layia has not been recorded onsite, but has a low to moderate potential to occur onsite based on availability of suitable habitat. It is noted, in compliance with

E-CDP Condition 23 (Mitigation Measure BIO-1) (see discussion below), a botanical survey for special-status plants was conducted prior to commencing SWF construction. The survey verified that no special-status plant species were present at the wellfield. Monterey pine consisting of a small stand in the center of the percolation ponds (near Well 9P7) was observed onsite during the habitat assessment.

**Avoidance and Minimization Measures.** Grasslands and scrub habitats in the well field located on the eastern portion of the Project site are habitat for compact cobwebby thistle and Jones' layia, however, they were not identified during the May 2014 habitat assessment, or the 2014 botanical survey for special-status plants.

- *SWF:* SWF improvements in this area include the Recharge Injection Well (RIW) and product water pipeline. No improvements are proposed within or adjacent to the Monterey pine stand. The Well 9P7 discharge pipeline is an existing pipeline.

- *Project Modifications:* The only Project modification in this area is the surface water pipeline. No improvements are proposed within or adjacent to the Monterey pine stand.

**SUSTAINABLE WATER FACILITY**

**SWF Direct and Indirect Impacts.** Direct or indirect impacts could occur to special-status plant species (cobwebby thistle and Jones' layia), as a result of the SWF. Excavation and fill for wells and pipelines could result in the loss of these special-status plant species. SWF construction activity could result in the spread of nonnative weed seeds via clothing, tires, or vehicle undercarriages. In addition, vehicle travel and pedestrian foot traffic within the Project boundaries could result in the trampling of plant species.

The SWF is subject to compliance with Mitigation Measure BIO-1 (E-CDP Condition 23) (see *SWF Construction-Related Measures/Standards* discussion below), which requires a botanical survey for special-status plants, and Mitigation Measure BIO-2 (E-CDP Condition 18), which requires that disturbed areas be revegetated with an assemblage of native riparian, wetland, and upland vegetation suitable for the area. With implementation of Mitigation Measures BIO-1 and BIO-2, SWF impacts to special-status plant species (cobwebby thistle and Jones' layia) potentially occurring in the eastern portion of the Project site would be reduced to less than significant.

**SWF Construction-Related Measures/Standards.** Compliance with construction-related measures/standards occurred before/during the SWF's construction phase. In compliance with Mitigation Measure BIO-1 (E-CDP Condition 23), a botanical survey for special-status plants was conducted prior to commencing site disturbing activities. The survey verified that no special-status plant species were present within the disturbed areas (at wellfield).

**MITIGATION MEASURES (PROJECT MODIFICATIONS)**

**Project Modifications Direct and Indirect Impacts.** The pre-SWF construction botanical survey verified that no special-status plant species are present at the wellfield where the surface water pipeline is proposed. Notwithstanding, direct or indirect impacts could occur to special-status plant species (cobwebby thistle and Jones' layia), as a result of the Project modifications. Excavation and fill for the surface water pipeline could result in the loss of these special-status plant species. Construction of the surface water pipeline could result in the spread of nonnative weed seeds via clothing, tires, or vehicle undercarriages. In addition, vehicle travel and pedestrian foot traffic within the Project boundaries could result in the trampling of plant species.

The Project modifications are subject to compliance with Mitigation Measure BIO-1 (E-CDP Condition 23), which requires a botanical survey for special-status plants, and Mitigation Measure BIO-2 (E-CDP Condition 18), which requires that disturbed areas be revegetated with an assemblage of native riparian, wetland, and upland vegetation suitable for the area. With implementation of Mitigation Measures BIO-1 and BIO-2, surface water pipeline impacts to special-status plant species (cobwebby thistle and Jones' layia) potentially occurring in the eastern portion of the Project site would be reduced to less than significant.

**Listed Wildlife Species**

*Tidewater Goby*

**Survey Results.** Tidewater goby was observed in San Simeon Creek Lagoon during the habitat assessment and focused surveys. It is historically known to be present and spawn within San Simeon Creek Lagoon. San Simeon Creek Lagoon has also been designated as tidewater goby Critical Habitat Unit SLO-5.

**Avoidance and Minimization Efforts.** This species occurs in San Simeon Creek Lagoon but is unlikely to occur within either San Simeon Creek or Van Gordon Creek, where riffles and even minor turbulence are deterrents.

- *SWF:* Non-chlorinated microfilter effluent, or a combination of de-chlorinated and oxygenated RO product water and microfilter effluent (a Project Design Feature (PDF) hereinafter referenced as "lagoon water") is provided by the Project when the facility is operated during dry weather conditions and there is no flow occurring in the creek. The Project's lagoon water is provided as a surface discharge immediately upstream from the upper San Simeon Creek Lagoon. An above-ground pipeline is used to deliver 100 gallons per minute (gpm) of lagoon water from the Advanced Water Treatment Plant (AWTP) to a surface discharge structure; see Exhibit 3-11. The discharge structure, which is located just north of the San Simeon Creek treeline, dissipates velocity to create a sheet flow of mitigation water, prior to entering immediately upstream from the upper San Simeon

Creek Lagoon. As discussed below, Mitigation Measure BIO-3 requires that the filtrate pipeline be extended to relocate the discharge point further south to the San Simeon Creek bank.

- *Project Modifications:* As noted above, 100 gpm of lagoon water is delivered for surface discharge immediately upstream from the upper San Simeon Creek Lagoon. To avoid biasing Well 16D1 water quality samples (as requested by the RWQCB) and more efficiently deliver surface water into San Simeon Creek to maintain water levels at San Simeon Creek Lagoon, the Project modifications involve placing the surface discharge point further south and closer into the San Simeon Creek bank; see *SWF Direct and Indirect Project Impacts* Section and Mitigation Measure BIO-3 below. At the discharge point, articulating concrete block (ACB) (Armorflex or similar) lining (approximately 87 SF) is proposed to protect the San Simeon Creek channel banks from erosion. Armorflex allows for the continued growth of riparian vegetation, further protecting the channel from any potential erosion. Implementation of BMPs would avoid/reduce any sedimentation within the water bodies.

**SUSTAINABLE WATER FACILITY**

**SWF Direct and Indirect Impacts.** Direct impacts to tidewater goby are negligible during SWF construction, since SWF improvements are outside of its habitat. Construction-related noise impacts at the lagoon are negligible, since they would be short-term and on the surface, out of the water and generally out of the immediate creek/lagoon's vicinity. No nighttime construction activities are proposed; therefore, no light/glare impacts would occur.

As discussed in Impact 5.5-1, the SWF was required to prepare and submit a NOI and a SWPPP to the SWRCB demonstrating compliance with the General Construction Permit. BMPs were implemented to avoid/reduce any sedimentation within the water bodies. Additionally, the SWF is subject to compliance with Mitigation Measures BIO-4 (E-CDP Condition 16), BIO-5 (E-CDP Condition 17), and BIO-6 (E-CDP Condition 20), which would further avoid/lessen potential impacts to tidewater gobies. Construction-related SWF impacts to surface water quality (including impacts to beneficial uses of receiving waters) are less than significant following compliance with the NPDES, BCO, and CZLUO requirements.

Indirect operational impacts to tidewater goby could occur as the result of pumping 629 gpm of groundwater upstream of San Simeon Creek Lagoon at Well 9P7, which is located at the CCSD's treated wastewater effluent percolation ponds. If the SWF were to lower the lagoon water level during its dry period operation, it could result in a premature sandbar closure at San Simeon Creek Lagoon. This could reduce the amount of habitat for tidewater goby found in the lagoon. Unexpected habitat loss could result in decreased food and shelter, resulting in increased competition for resources not just between tidewater gobies, but between gobies and other fish species that may be present in the lagoon. Adverse effects to tidewater goby could result in a

take of this listed species; any such take would require either exemption from the prohibition against take or take authorization. However, the SWF returns 100 gpm to the San Simeon Creek Lagoon and 452 gpm are re-injected into the San Simeon Creek aquifer further up-gradient at the well field (a minor flow of 37 gpm of MF backwash water enters one of the percolation ponds and 39 gpm of RO concentrate is discharged in the evaporation pond). Mitigation Measure BIO-3 requires that the filtrate pipeline be extended to relocate the discharge point further south to the San Simeon Creek bank to more efficiently deliver surface water into San Simeon Creek to maintain water levels at San Simeon Creek Lagoon, while also addressing its potential interference with water samples pulled from existing monitoring well 16D1. The GMR (see Appendix E1) included detailed hydrogeological modeling and found that the 100 gpm of mitigation water to the lagoon would maintain water levels in the lagoon, thereby avoiding potential impacts to the lagoon habitat; refer to Impact 5.5-3. Further, the Technical Memorandum concluded that under normal climatic conditions, flows of 50 gpm, which would be one-half of the proposed 100 gpm mitigation flow, would be sufficient to maintain lagoon levels similar to conditions without the SWF. The Technical Memorandum (see Appendix E6) also included simulations under extreme drought conditions, comparing the zero (0) gpm, 50 gpm, and 100 gpm mitigation flow to conditions without the SWF. During the first year of simulated drought, the 100 gpm mitigation flow would maintain lagoon levels similar to conditions without the SWF. During the second year of simulated drought, both the 50 gpm and 100 gpm mitigation flows would result in higher lagoon levels than conditions without the SWF. Under extreme drought conditions without the SWF, the CCSD well field would not be capable of producing the permitted quantities, while under conditions with the SWF, production at permitted rates could continue. Based on the GMR's and Technical Memorandum's findings, the 100 gpm mitigation flow to the lagoon would maintain water levels in the lagoon. Notwithstanding, Mitigation Measure BIO-7 requires implementation of an Adaptive Management Program (AMP) for long-term SWF operations. The AMP is intended to monitor and protect the lagoon, creek, and riparian habitats and, by extension, protect the species that inhabit them (including the tidewater goby). The AMP's primary goal is to monitor the response of the lagoon, creeks, and riparian habitats to SWF operations. Monitoring is required as part of the AMP to ensure that creek and lagoon levels are maintained during SWF operations. It is noted, while a perennial section of San Simeon Creek is known to be present upstream of the confluence with Steiner Creek, San Simeon Creek's lower reaches are intermittent and are generally only inundated from late fall to late spring or early summer, which would likely coincide with periods when the SWF would not operate. The U.S. Geological Survey has found that the lower reaches of the creek (such as traverse the Project site) flow subterranean during the dry season due to natural dry-season water level decline (i.e., decline without any pumping occurring). Thus, the creek would normally not be inundated during the six dry months of the year when the SWF would operate, discharging 100 gpm of mitigation water. With implementation of Mitigation Measure BIO-7, the lagoon and creek habitats would be protected, and by extension, the tidewater goby that inhabit them, as well. With mitigation, impacts to tide water goby would be reduced to less than significant.

Refer to Impact 5.3-5 below for a discussion of the SWF's compliance with CZLUO Section 23.07.170.e.2 (Development in ESHA to Avoid a Taking).

**SWF Construction-Related Measures/Standards.** Compliance with construction-related measures/standards occurred before/during the SWF's construction phase. In compliance with Mitigation Measure BIO-4 (E-CDP Condition 16), during construction/ground disturbing activities, all trash was properly contained, removed from the work site, and disposed of regularly. In compliance with Mitigation Measure BIO-5 (E-CDP Condition 17), during construction/ground disturbing activities, all refueling, maintenance, and staging of equipment and vehicles occurred at least 100 feet from riparian habitat or water bodies; see in Exhibit 3-12, *Construction Laydown/Staging Areas*. The CRLF monitor (see discussion below) was present to ensure contamination of habitat did not occur during SWF construction. Prior to commencement of grading/construction activities, a plan was prepared to ensure prompt and effective response to any accidental spills, in the event they occurred. No accidental spills occurred during SWF construction. In compliance with Mitigation Measure BIO-6 (E-CDP Condition 20), BMPs were implemented to minimize sediment from entering nearby water bodies.

**MITIGATION MEASURES (PROJECT MODIFICATIONS)**

**Project Modifications Direct and Indirect Impacts.** The proposed Project modifications involve removing the surface discharge structure and extending the filtrate pipeline to relocate the discharge point further south to the San Simeon Creek bank. As discussed above, these Project modifications were recommended as Mitigation Measure BIO-3, in order to avoid biasing Well 16D1 water quality samples (as requested by the RWQCB) and more efficiently deliver surface water into San Simeon Creek to maintain water levels at San Simeon Creek Lagoon. At the relocated discharge point, ACB) (Armorflex) lining (approximately 87 SF) is proposed to protect the San Simeon Creek channel bank from erosion. Armorflex would allow for the continued growth of riparian vegetation, further protecting the channel from any potential erosion due to the 4-inch diameter lagoon water discharge. Direct impacts to tidewater goby are expected to be negligible during construction, since they would be limited to the ACB lining at the lagoon discharge structure of the San Simeon Creek channel banks. Specifically, construction-related direct impacts would involve making the area immediately surrounding the discharge temporarily uninhabitable by goby, if present in this area. Construction-related noise impacts at the creek are expected to be negligible, since they would be short-term and on the surface, out of the water. No nighttime construction activities are proposed; therefore, no light/glare impacts would occur.

As discussed in Impact 5.5-1, the Project modifications would require NOI and a SWPPP to the SWRCB to obtain coverage under the General Construction Permit. BMPs would be implemented to avoid/reduce any sedimentation within the water bodies. Additionally, the Project modifications would be subject to compliance with construction-related measures/standards before/during the construction phase. During the Project modifications' construction/ground

disturbing activities, Mitigation Measure BIO-4 requires that all trash be properly contained, removed from the work site, and disposed of regularly. Mitigation Measure BIO-5 requires that during construction/ground disturbing activities, all refueling, maintenance, and staging of equipment and vehicles must be at least 100 feet from riparian habitat or water bodies; see in Exhibit 3-15, *Mitigation Measures (Project Modifications) Construction Laydown/Staging Areas*. The CRLF monitor would be present to ensure contamination of habitat does not occur during Project modifications construction. Prior to commencement of grading/construction activities, a plan is required to ensure prompt and effective response to any accidental spills, in the event they occurred. Mitigation Measure BIO-6, requires that BMPs be implemented to minimize sediment from entering nearby water bodies. Compliance with Mitigation Measures BIO-4 through BIO-6 would further avoid/lessen potential impacts to tidewater gobies. Construction-related impacts to surface water quality (including impacts to beneficial uses of receiving waters) from the Project modifications would be less than significant following compliance with the NPDES, BCO, and CZLUO requirements.

No indirect operational impacts to tidewater goby would occur, as a result of the Project modifications.

Refer to Impact 5.3-5 below for a discussion of the Project modifications' compliance with CZLUO Section 23.07.170.e.2 (Development in ESHA to Avoid a Taking).

***Steelhead (South/Central California Coast DPS)***

**Survey Results.** Steelhead trout were not observed during Michael Baker's habitat assessment or focused surveys. This species is known to occur and spawn in San Simeon Creek, and San Simeon Creek Lagoon is used as habitat for smolts preparing to enter the Pacific Ocean. San Simeon Creek and Van Gordon Creek are part of steelhead designated Critical Habitat in the Estero Bay Hydrologic Unit.

**Avoidance and Minimization Efforts.** This species occurs in San Simeon Creek, San Simeon Creek Lagoon, and, if inundated, Van Gordon Creek.

- *SWF:* The RO concentrate disposal and filtrate pipelines both cross under Van Gordon Creek. However, horizontal directional drilling construction was used to install these pipeline reaches under Van Gordon Creek without disturbing the ground surface. This pipeline installation was coordinated with the biological monitor with entrance and exit pits located outside of the tree drip line. Thus, Van Gordon Creek was avoided. As discussed above, 100 gpm of mitigation water is pumped during dry weather conditions for surface discharge to the upstream end of the San Simeon Creek Lagoon.

- *Project Modifications:* The proposed Project modifications involve removing the surface discharge structure and extending the filtrate pipeline to relocate the discharge point

further south to the San Simeon Creek bank (BIO-3), where ACB lining is proposed to protect the San Simeon Creek channel banks from erosion. BMPs would be used as necessary to avoid or reduce any sedimentation within the water bodies.

**SUSTAINABLE WATER FACILITY**

**SWF Direct and Indirect Impacts.** No steelhead were observed in San Simeon Creek, San Simeon Creek Lagoon, or Van Gordon Creek during the habitat assessment or CRLF and tidewater goby focused surveys. Direct impacts to steelhead in Van Gordon Creek would not occur during SWF construction, since no improvements are proposed within Van Gordon Creek. Direct impacts to steelhead (if present) in San Simeon Creek and Lagoon during construction are expected to be negligible, since they would be short-term and on the surface, out of the water and generally out of the creek/lagoon's immediate vicinity. As discussed in Impact 5.5-1, the SWF was required to prepare and submit a NOI and a SWPPP to the SWRCB demonstrating compliance with the General Construction Permit. BMPs were implemented to avoid/reduce any sedimentation within the water bodies. Additionally, the SWF is subject to compliance with Mitigation Measures BIO-4 (E-CDP Condition 16), BIO-5 (E-CDP Condition 17), and BIO-6 (E-CDP Condition 20), which would further avoid/lessen potential impacts to steelhead. Construction-related impacts to surface water quality (including impacts to beneficial uses of receiving waters) from the SWF are less than significant following compliance with the NPDES, and CZLUO requirements.

Indirect operational impacts could occur, particularly if reductions in the water table result in earlier-than-average seasonal drops in creek surface water. Adult steelhead typically migrate from the ocean into coastal streams between December and May, according to weather patterns and stream flow. On the other hand, smolts typically migrate downstream to lagoons and eventually the ocean between March and June, although low stream flows can block smolts from reaching their destinations. Reduced water in the lower reaches of San Simeon Creek could lead to earlier-than-usual sandbar closures in San Simeon Creek Lagoon, affecting the ability of smolts to migrate to the ocean and prematurely altering the lagoon/estuary temporal interchange. This may result in smolts becoming stranded in San Simeon Creek Lagoon and spending an extra year in the lagoon instead of at sea. Stranded smolts would suffer from increased competition in the lagoon habitat, particularly as upstream areas within San Simeon Creek dry up and leave only an isolated portion of the creek and lagoon. Adverse effects to steelhead could result in a take of this listed species; any such take would require either exemption from the prohibition against take or take authorization. However, the SWF returns 100 gpm to the San Simeon Creek Lagoon and 452 gpm are re-injected into the San Simeon Creek aquifer further up-gradient at the well field. Mitigation Measure BIO-3 requires that the filtrate pipeline be extended to relocate the discharge point further south to the San Simeon Creek bank to more efficiently deliver surface water into San Simeon Creek to maintain water levels at San Simeon Creek Lagoon. The GMR included detailed hydrogeological modeling and found that the 100 gpm of mitigation water would maintain water levels in the lagoon, thereby avoiding potential impacts to steelhead habitat; refer

to Impact 5.5-3. Further, the Technical Memorandum concluded that under normal climatic conditions, flows of 50 gpm, which would be one-half of the proposed 100 gpm mitigation flow, would be sufficient to maintain lagoon levels similar to conditions without the SWF. Based on the GMR's and Technical Memorandum's findings, the 100 gpm mitigation flow to the lagoon would maintain water levels in the lagoon. Notwithstanding, Mitigation Measure BIO-7 requires implementation of an AMP for long-term SWF operations. Monitoring would be required as part of the AMP to ensure that creek/lagoon levels are maintained during SWF operations. With implementation of the AMP (Mitigation Measure BIO-7), the lagoon and creek habitats would be protected, and by extension, the steelhead that inhabit them, as well. Additionally, Mitigation Measure BIO-15 requires that the CCSD continue with its existing efforts to monitor the creek habitat adjacent to, and downstream from the Project area, as required by the AMP, and specifies provisions, in the event migrating steelhead reappear within the San Simeon Creek. It is noted, San Simeon Creek's lower reaches are intermittent and are generally only inundated from late fall to late spring or early summer, which would likely coincide with periods when the SWF would not operate. The U.S. Geological Survey has found that the lower reaches of the creek (such as traverse the Project site) flow subterranean during the dry season due to natural dry-season water level decline (i.e., decline without any pumping occurring). Thus, the creek would normally not be inundated during the six dry months of the year when the SWF would operate, discharging 100 gpm of mitigation water. Therefore, with mitigation, impacts to steelhead would be reduced to less than significant.

**MITIGATION MEASURES (PROJECT MODIFICATIONS)**

**Project Modifications Direct and Indirect Impacts.** Direct impacts to steelhead in Van Gordon Creek would not occur during construction of the Project modifications, since no improvements are proposed within Van Gordon Creek. Direct impacts to steelhead (if present) in San Simeon Creek and Lagoon during construction are expected to be negligible, since they would be short-term and on the surface, out of the water and generally out of the creek/lagoon's immediate vicinity, with the exception of the relocated surface discharge point, which is proposed at the San Simeon Creek bank. As discussed in Impact 5.5-1, the Project modifications would be required to prepare and submit a NOI and a SWPPP to the SWRCB demonstrating compliance with the General Construction Permit. BMPs would be implemented to avoid/reduce any sedimentation within the water bodies. Additionally, the Project modifications would be subject to compliance with Mitigation Measures BIO-4 through BIO-6, which would further avoid/lessen potential impacts to steelhead. The Project modifications' construction-related impacts to surface water quality (including impacts to beneficial uses of receiving waters) would be less than significant following compliance with the NPDES, and CZLUO requirements.

No indirect operational impacts to steelhead would occur, as a result of the Project modifications.

*South-Central California Steelhead Recovery Plan*

The South-Central California Steelhead Recovery Plan (Recovery Plan) (NMFS 2013) identifies the San Simeon Creek steelhead population as one of the Core 1, or highest priority, populations of this subspecies for recovery. As stated in the Recovery Plan, groundwater extraction is one of the current threats to the stream and riparian corridor.

**SUSTAINABLE WATER FACILITY**

The amount of surface water that is returned to San Simeon Creek Lagoon would be a minimum of 100 gpm, but this would be adaptable up to 150 gpm through the AMP. Mitigation Measure BIO-3 requires that the 4-inch diameter lagoon water pipeline be extended to relocate the discharge point further south to the San Simeon Creek bank to more efficiently deliver surface water into San Simeon Creek to maintain water levels at San Simeon Creek Lagoon. As discussed above, the Technical Memorandum concluded that under normal climatic conditions, flows of 50 gpm, which would be one-half of the proposed 100 gpm mitigation flow, would be sufficient to maintain lagoon levels similar to conditions without the SWF. Based on the GMR's and Technical Memorandum's findings, the 100 gpm mitigation flow to the lagoon would maintain water levels in the lagoon. Mitigation Measure BIO-7 (Adaptive Management Plan), requires that the CCSD implement an AMP entailing long-term monitoring. The AMP requires monitoring of groundwater levels, surface water levels/flows, in-stream and riparian habitat, and presence of listed species, including steelhead. Implementation of the AMP is intended to avoid or reduce adverse impacts to steelhead, wherein if adverse effects to surface water, habitat, and/or species are detected as a result of AMP monitoring actions, the SWF would be required to shut down and consult with regulatory agencies to determine the best actions to take.

The Recovery Plan also notes the current loss of 50 percent of the estuary, but also states that this loss is due to earlier development of San Simeon State Park and its associated recreational facilities, as well as the placement of the park's vehicle and pedestrian bridge overcrossings. The SWF would not result in permanent losses of estuarine habitat, as it proposes no new development within the estuary. Based on detailed hydrogeological modeling (GMR), the groundwater reinjection and 100 gpm of mitigation water to the lagoon would maintain water levels in the lagoon, thereby avoiding potential impacts to the lagoon habitat. Further, the Technical Memorandum concluded that under normal climatic conditions, flows of 50 gpm, which would be one-half of the proposed 100 gpm mitigation flow, would be sufficient to maintain lagoon levels similar to conditions without the SWF. Based on the GMR's and Technical Memorandum's findings, the 100 gpm mitigation flow to the lagoon would maintain water levels in the lagoon. The lagoon/estuary would be expected to be generally subject to its annual cycles, which are also influenced by weather. Thus, impacts would be less than significant in this regard.

Refer to Impact 5.3-5 below for a discussion of the SWF's consistency with CZLUO Sections 23.07.170.e.2 (Development in ESHA to Avoid a Taking), and 23.07.170.e.3 (Steelhead Stream Protection: Net Loss Stream Diversions Prohibited).

**SWF Construction-Related Measures/Standards.** Compliance with construction-related measures/ standards occurred before/during the SWF's construction phase. Mitigation Measures BIO-4 (E-CDP Condition 16), BIO-5 (E-CDP Condition 17), and BIO-6 (E-CDP Condition 20) were implemented during construction/ground disturbing activities, as discussed above.

**MITIGATION MEASURES (PROJECT MODIFICATIONS)**

The Project modifications would be subject to compliance with Mitigation Measures BIO-4 through BIO-6 during construction/ground disturbing activities, as discussed above. With mitigation, the Project modifications would result in less than significant impacts in this regard.

The Project modifications would not indirectly impact or conflict with the Recovery Plan.

*California Red-legged Frog*

**Survey Results.** This species was detected in high numbers in San Simeon Creek Lagoon and lower San Simeon Creek during a population estimation survey in September and October 2014, as well as during the February and April 2015 surveys. In addition, the entire Project site is included in CRLF designated Critical Habitat Unit SLO-2.

**Avoidance and Minimization Efforts.** This species occurs in San Simeon Creek, San Simeon Creek Lagoon, and Van Gordon Creek. Some upland habitat present in the percolation ponds may be used by this species.

- *SWF:* Most of the CRLF habitat areas would be avoided during SWF construction. The RO concentrate disposal and filtrate pipelines both cross under Van Gordon Creek. However, horizontal directional drilling construction was used to install these pipeline reaches under Van Gordon Creek without disturbing the ground surface. This pipeline installation was coordinated with the biological monitor. Thus, Van Gordon Creek is avoided. The vast majority (approximately 90 percent) of the conveyance piping was installed above grade to minimize ground disturbance. No SWF improvements are proposed within the percolation ponds. As discussed above, 100 gpm of mitigation water (filtrate) is pumped during dry weather conditions for surface discharge at the upstream end of the San Simeon Creek Lagoon. BMPs would be used as necessary to avoid or reduce any sedimentation within the water bodies.

  The RO concentrate evaporation pond holds water, and thus, could attract the CRLF. To prevent CRLF from access to the evaporation pond, a frog-exclusion fence was installed

along the evaporation pond's perimeter.[5] The fence is constructed of rigid high-density polyethylene (HDPE) matrix, is approximately four feet high, and includes a climber barrier with climber barrier bracket. The fence was selected following its initial suggestion by a USF&WL representative during an August 27, 2014 joint agency project review meeting at the Santa Cruz offices of the California Coastal Commission. Subsequently, the CDM Project Management team researched and located a frog fence material that was accepted by USF&WL (ERTEC E-Fence), which was ultimately installed around the entire evaporation pond perimeter. The frog exclusion fence included an integral climber barrier and HDPE matrix to prevent CRLF from being trapped within the fence.

- *Project Modifications:* No Project modifications are proposed within Van Gordon Creek or the percolation ponds. The proposed Project modifications include repurposing the evaporation pond (i.e., Potable water supply storage basin), offsite disposal of the RO concentrate, and a containerized SWTP and Baker tanks (sited adjacent and immediately east of the AWTP). The mechanical spray evaporators/enclosures would be removed. Five new pipelines would be constructed (including the lagoon water filtrate pipeline extension).

  As previously discussed, a PDF is to provide 100 gpm of lagoon water, which is pumped during dry weather conditions for surface discharge at the upstream end of the San Simeon Creek Lagoon. The proposed Project modifications also involve removing the existing surface discharge structure and extending the lagoon water filtrate pipeline to relocate the discharge point further south to the northern bank of the San Simeon Creek (Mitigation Measure BIO-3), where ACB lining (or similar erosion prevention measure) is proposed to protect the San Simeon Creek channel banks from erosion. The 4-inch diameter lagoon water filtrate pipeline extension would be laid on top of the ground surface, and routed/placed by hand to avoid impacts to the habitat. BMPs would be used as necessary to avoid or reduce any sedimentation within the water bodies.

  Mitigation Measure AES-2 requires removal of the mechanical spray evaporators and their enclosures. As a result, the Project modifications include offsite RO concentrate disposal and repurposing the evaporation pond as a potable water supply storage basin. The RO concentrate would be discharged to Baker tanks for storage prior to offsite disposal, instead of the evaporation pond. Thus, the evaporation pond would no longer be used to store RO concentrate and the repurposed evaporation pond (the potable water supply storage basin) would be filled with untreated (raw) potable water. No changes to the frog-exclusion fence are proposed, as part of the Project modifications. The fence's integral climber barrier and HDPE matrix would remain to prevent CRLF from being trapped within the fence.

[5] Specifically, the ERTEC E-Fence, which is accepted by the USFWS for CRLF exclusion, was installed; file:///F:/ERTEC%20E-Fence%20brochure.pdf.

**SUSTAINABLE WATER FACILITY**

**SWF Direct and Indirect Impacts.** Direct impacts to CRLF are expected to be negligible during SWF construction. There is a minor risk of CRLF being in the upland areas during construction and potentially approaching construction areas. This may result in stress, injury, or in unlikely scenarios, death if CRLF are run over by vehicles. Construction-related noise and vibrations may be minor disturbances if CRLF are present in the area and above-ground. The SWF is subject to compliance with Mitigation Measure BIO-11 (E-CDP Condition 15), which requires that a USFWS-approved biologist be present at the work site until all CRLF are removed, that workers be instructed, and habitat disturbance ceased. The biologist is also required to monitor onsite compliance with all minimization measures. As discussed below, compliance with Mitigation Measures BIO-4 through BIO-6, and BIO-8 and BIO-9 to avoid/reduce impacts to CRLF.

Although the waste stream constituents are considered non-hazardous (see Section 8.0, *Effects Found Not To Be Significant*), CRLF could be attracted to the evaporation pond due to the presence of standing water and adversely impacted by the RO concentrate's hypersalinity. The SWF employs deterrent and exclusion methods to prohibit CRLF entry into the evaporation pond area. The four-foot high CRLF exclusion fence installed along the evaporation pond's perimeter prevents CRLF, as well as various other terrestrial wildlife, from entry into the evaporation pond area. Additionally, the climber barrier and HDPE matrix prevent CRLF from being trapped within the fence. Further, Mitigation Measure AES-2 requires removal of the mechanical spray evaporators and their enclosures, and as a result, the RO concentrate would be disposed of offsite; see *Project Modifications* discussion that follows. Given that the exclusionary fence would prohibit CRLF entry to the evaporation pond, and since the evaporation pond would no longer be used to store RO concentrate, but rather would be repurposed as a potable water supply storage basin, the SWF would result in less than significant impacts in this regard.

Indirect operational impacts could occur, particularly if reductions in the water table result in earlier-than-average seasonal drops in creek surface water. In San Simeon Creek, because CRLF can breed as late as late April, early drops in water levels could possibly affect the ability of CRLF eggs to hatch. CRLF typically attaches its eggs to floating vegetation or vegetation rooted in the creek substrate; drops in the water level could cause egg masses to desiccate. Tadpoles in turn could be lost if the creek dries too quickly, or increased competition for food from fish (such as stranded smolts) could result in tadpoles being subjected to increased predation. Adverse effects to steelhead could result in a take of this listed species; any such take would require either exemption from the prohibition against take or take authorization. However, the SWF returns 100 gpm to the San Simeon Creek Lagoon and 452 gpm are re-injected into the San Simeon Creek aquifer further up-gradient at the well field. Mitigation Measure BIO-3 requires that the filtrate pipeline be extended to relocate the discharge point further south to the San Simeon Creek bank to more efficiently deliver surface water into San Simeon Creek to maintain water levels at San Simeon Creek Lagoon. The GMR included detailed hydrogeological modeling and found that

the 100 gpm of mitigation water to the lagoon would maintain lagoon water levels, thereby avoiding potential impacts to the CRLF habitat. Further, the Technical Memorandum concluded that under normal climatic conditions, flows of 50 gpm, which would be one-half of the proposed 100 gpm mitigation flow, would be sufficient to maintain lagoon levels similar to conditions without the SWF. Based on the GMR's and Technical Memorandum's findings, the 100 gpm mitigation flow to the lagoon would maintain water levels in the San Simeon Creek Lagoon. Notwithstanding, monitoring would be required as part of the AMP (Mitigation Measure BIO-7) to ensure that creek/lagoon levels are maintained during SWF operations. With implementation of the AMP (Mitigation Measure BIO-7), the lagoon, creek, and riparian habitats would be protected, and by extension, the CRLF that inhabit them, as well. The U.S. Geological Survey has found that the lower reaches of the creek (such as traverse the Project site) flow subterranean during the dry season due to natural dry-season water level decline (i.e., decline without any pumping occurring). Thus, the creek would normally not be inundated during the six dry months of the year when the SWF would operate, discharging 100 gpm of mitigation water. With mitigation, impacts to CRLF would be reduced to less than significant.

Additionally, the SWF is subject to compliance with the following Mitigation Measures to avoid/reduce impacts to CRLF:

- BIO-2 (E-CDP Condition 18);
- BIO-4 (E-CDP Condition 16);
- BIO-5 (E-CDP Condition 17);
- BIO-6 (E-CDP Condition 20);
- BIO-8 (E-CDP Condition 12);
- BIO-9 (E-CDP Condition 13);
- BIO-10 (E-CDP Condition 14);
- BIO-11 (E-CDP Condition 15);
- BIO-12 (E-CDP Condition 19);
- BIO-13 (E-CDP Condition 21); and
- BIO-14 (E-CDP Condition 22).

With implementation of Mitigation Measures BIO-2 through BIO-14, impacts to CRLF would be reduced to less than significant. Refer to Impact 5.3-5 below for a discussion of the SWF's compliance with CZLUO Section 23.07.170.e.2 (Development in ESHA to Avoid a Taking).

**SWF Construction-Related Measures/Standards.** Compliance with construction-related measures/ standards occurred before/during the SWF's construction phase. Mitigation Measures BIO-4 (E-CDP Condition 16), BIO-5 (E-CDP Condition 17), and BIO-6 (E-CDP Condition 20) were implemented during construction/ground disturbing activities, as discussed above. In compliance with Mitigation Measure BIO-8 (E-CDP Condition 12), protective fencing was placed around all onsite existing trees and riparian vegetation. This fence remained in place for the duration of SWF construction. In compliance with Mitigation Measure BIO-9 (E-CDP Condition 13), 48 hours prior to commencement of grading activities, a USFWS-approved biologist surveyed the Project site; see Appendix E3. In compliance with Mitigation Measure BIO-10 (E-CDP Condition 14), prior to commencement of grading activities, a USFWS-approved biologist conducted a training session for all construction personnel. In compliance with Mitigation Measure BIO-11 (E-CDP Condition 15), a USFWS-approved biologist was present at the work site

until all CRLF were removed, workers had been instructed, and habitat disturbance ceased. After this time, the biologist monitored onsite compliance with all minimization measures. The monitor/biologist was authorized to determine whether CRLF impacts were greater than anticipated or approved, and authorized to stop work until the issue was resolved. The monitor/biologist was instructed to immediately contact the resident engineer, where the resident engineer was required to either resolve the situation by eliminating the effect immediately, or halt all actions which were causing these effects. In compliance with Mitigation Measure BIO-12 (E-CDP Condition 19), contours were returned to as close to original as possible. It is noted, ground disturbance was nominal within CRLF habitat given the vast majority of the conveyance piping was installed above grade. In compliance with Mitigation Measure BIO-13 (E-CDP Condition 21), water was not impounded, with the exception of the evaporation pond, where a frog-exclusion fence was installed, as discussed above.

**MITIGATION MEASURES (PROJECT MODIFICATIONS)**

**Project Modifications Direct and Indirect Impacts.** Direct impacts to CRLF are expected to be negligible during Project modifications construction. There is a minor risk of CRLF being in the upland areas during construction and potentially approaching construction areas. This may result in stress, injury, or in unlikely scenarios, death if CRLF are run over by vehicles. Construction-related noise and vibrations may be minor disturbances if CRLF are present in the area and above-ground. Direct impacts to CRLF are expected to be negligible during construction, since they would be limited to the ACB lining of the San Simeon Creek channel banks. Specifically, construction-related direct impacts would involve making the area immediately surrounding the discharge temporarily uninhabitable by CRLF, if present in this area. Additionally, small amounts of sedimentation could occur within the creek from installing the ACB lining. However, due to the volume of water in the creek throughout this area, the impact of light sedimentation would be minimal outside of the immediate impact area. Construction-related noise and vibrations may be minor disturbances if frogs are present in the area and above-ground. The Project modifications are subject to compliance with Mitigation Measure BIO-11, which requires that a USFWS-approved biologist be present at the work site until all CRLF are removed, that workers be instructed, and habitat disturbance ceased. The biologist is also required to monitor onsite compliance with all minimization measures. Compliance with Mitigation Measures BIO-4 through BIO-6, and BIO-8 and BIO-9 would further avoid/reduce impacts to CRLF. With mitigation, the Project modifications' construction-related impacts to CRLF would be less than significant.

Project modifications include offsite RO concentrate disposal and repurposing the evaporation pond as a potable water supply storage basin. The RO concentrate would be discharged to Baker tanks for storage prior to offsite disposal, instead of the evaporation pond. Thus, the evaporation pond would no longer be used to store RO concentrate and the repurposed pond (i.e., the potable water supply storage basin) would be filled with potable water. CRLF could still be attracted to the potable water supply storage basin due to the presence of standing water. The four-foot high

CRLF exclusion fence that exists along the evaporation pond's perimeter would be retained to prohibit CRLF, as well as various other terrestrial wildlife, from entry into the potable water supply storage basin. The fence's integral climber barrier and HDPE matrix would be retained to prevent the CRLF from being trapped within the fence. Given that the exclusionary fence would prohibit the CRLF from entry to the potable water supply storage basin, and since the evaporation pond would no longer be used to store RO concentrate, but rather would be repurposed as a potable water supply storage basin, the Project modifications would result in less than significant impacts in this regard.

Concerning indirect operational impacts to CRLF, in compliance with Mitigation Measure BIO-3, the filtrate pipeline would be extended to relocate the discharge point further south to the San Simeon Creek bank to more efficiently deliver surface water into San Simeon Creek to maintain water levels at San Simeon Creek Lagoon. The potential impact associated with the velocity of the discharge would be reduced to less than significant by dissipation via the ACB lining.

**Special-Status Wildlife Species**

**Survey Results.** Only two non-listed special-status wildlife species were observed during surveys: yellow warbler (*Setophaga petechia*); and western pond turtle. In addition, based on a CNDDB search, seven (7) additional non-listed species were determined to have a moderate or higher potential to occur within the Project site:

- Ferruginous hawk;
- Prairie falcon;
- Fringed myotis;
- Yuma myotis;
- Foothill yellow-legged frog;
- Coast Range newt; and
- Two-striped garter snake (historically been known to occur in San Simeon Creek).

**Avoidance and Minimization Measures.**

- *SWF:* Of the nine non-listed special-status wildlife species that could occur on the Project site, all would most likely occur in areas that are likely to be directly avoided by the SWF. Yellow warbler would forage and nest in the summer in riparian trees, which would be avoided. Ferruginous hawk and prairie falcon would be most likely to occur in the winter around grassy fields such as those on the wellfield or in surrounding agricultural fields. Grassy fields would be minimally affected and by constructing the SWF in the summer, the CCSD would avoid direct construction effects to these two species. Fringed myotis and Yuma myotis are most likely to roost in trees during the day and forage over the water or over fields at night; by constructing during the day, foraging would be unlikely to be affected, and by mostly avoiding arboreal habitat, roosting habitat would be mostly unaffected. Finally, western pond turtle, foothill yellow-legged frog, Coast Range newt, and two-striped garter snake would be most likely to occur in San Simeon Creek, San

Simeon Creek Lagoon, and Van Gordon Creek, or in the generally immediate upland areas. San Simeon Creek Lagoon and San Simeon and Van Gordon Creeks would be avoided by SWF construction. The SWF was constructed primarily in the summer, when these species were mostly tied to the water.

- *Project Modifications:* The potential impacts to the nine non-listed special-status wildlife species discussed above, would similarly occur for the Project modifications. Additionally, Yellow warbler would forage and nest in the summer in riparian trees; which are expected to be avoided except for possible light trimming associated with the filtrate pipeline extension. Additionally, the pipeline would be routed/placed by hand to protect the habitat. Finally, western pond turtle, foothill yellow-legged frog, Coast Range newt, and two-striped garter snake would be most likely to occur in San Simeon Creek, San Simeon Creek Lagoon, and Van Gordon Creek, or in the generally immediate upland areas. San Simeon Creek Lagoon and Van Gordon Creek would be avoided by Project construction. San Simeon Creek would be avoided by the Project modifications construction, except for the 4-inch diameter filtrate pipeline extension, which involves a discharge point at the San Simeon Creek bank and ACB installation.

**SUSTAINABLE WATER FACILITY**

**SWF Direct and Indirect Impacts.** SWF construction-related direct impacts to any of these non-listed special-status wildlife species are expected to be minimal. Construction near trees may result in disturbance to nesting birds or roosting bats, potentially resulting in increased stress or nest failure. In extreme situations, excessive disturbance may cause individual animals to leave the area, temporarily or permanently; for aquatic species, changes in seasonal water levels can result in habitat degradation and premature life events (e.g., upland breeding, overwintering, and migrations).

Indirect impacts to these non-listed special-status wildlife species would primarily be related to habitat degradation as a result of groundwater pumping. If excessive groundwater withdrawal results in degradation of the in-stream or surrounding riparian vegetation, including trees, it may result in decreased habitat quality for nesting birds or roosting bats. Drops in the water level in Van Gordon Creek, San Simeon Creek, or San Simeon Creek Lagoon may result in small reductions of available habitat for aquatic herpetofauna, but would not be expected to result in breeding failure or death. However, the SWF returns 100 gpm to the San Simeon Creek Lagoon and 452 gpm are re-injected into the San Simeon Creek aquifer further up-gradient at the well field. Mitigation Measure BIO-3 requires that the filtrate pipeline be extended to relocate the discharge point further south to the San Simeon Creek bank to more efficiently deliver surface water into San Simeon Creek to maintain water levels at San Simeon Creek Lagoon. The GMR included detailed hydrogeological modeling and found that the 100 gpm of mitigation water would maintain water levels in the lagoon, thereby avoiding potential impacts to steelhead habitat; refer to Impact 5.5-3. Further, the Technical Memorandum concluded that under normal

climatic conditions, flows of 50 gpm, which would be one-half of the proposed 100 gpm mitigation flow, would be sufficient to maintain lagoon levels similar to conditions without the SWF. Based on the GMR's and Technical Memorandum's findings, the 100 gpm mitigation flow to the lagoon would maintain water levels in the lagoon. Notwithstanding, Mitigation Measure BIO-7 requires implementation of an AMP for long-term SWF operations. Monitoring would be required as part of the AMP to ensure that creek/lagoon levels are maintained during SWF operations. The U.S. Geological Survey has found that the lower reaches of the creek (such as traverse the Project site) flow subterranean during the dry season due to natural dry-season water level decline (i.e., decline without any pumping occurring). Thus, the creek would normally not be inundated during the six dry months of the year when the SWF would operate, discharging 100 gpm of mitigation water. With implementation of the AMP (Mitigation Measure BIO-7), the lagoon and creek habitats would be protected, and by extension, the non-listed special-status wildlife species that inhabit them, as well. The SWF is also subject to compliance with Mitigation Measure BIO-6, Mitigation Measure BIO-16, and Mitigation Measure BIO-17. With implementation of Mitigation Measures BIO-6, BIO-7m BIO-16, and BIO-17, impacts to special-status wildlife species would be reduced to less than significant.

**SWF Construction-Related Measures/Standards.** Mitigation Measure BIO-1 was implemented during the SWF's construction phase. Mitigation Measure BIO-6 (E-CDP Condition 20) was implemented during construction/ground disturbing activities, as discussed above.

**MITIGATION MEASURES (PROJECT MODIFICATIONS)**

**Project Modifications Direct and Indirect Impacts.** The Project modifications' construction-related direct impacts to any of these non-listed special-status wildlife species are expected to be minimal, and similar to those described above for the SWF. Construction near trees may result in disturbance to nesting birds or roosting bats, potentially resulting in increased stress or nest failure.

As concluded above, indirect impacts to non-listed special-status wildlife species associated with the SWF would primarily be related to habitat degradation as a result of groundwater pumping Thus, concerning the Project modifications' indirect operational impacts to non-listed special status species, in compliance with Mitigation Measure BIO-3, the filtrate pipeline would be extended to relocate the discharge point further south to the San Simeon Creek bank to more efficiently deliver surface water into San Simeon Creek to maintain water levels at San Simeon Creek Lagoon. Therefore, the Project modifications would result in a less than significant impact to special-status wildlife species would be reduced to less than significant.

**Standards and Regulations:** Refer to Impact 5.3-5 below.

**Mitigation Measures:** The following mitigation measures pertain to both the SWF and Project modifications, unless otherwise noted.

BIO-1 Special-Status Plants. Prior to commencing site disturbing activities, a County-approved biologist/botanist shall conduct a botanical survey for special-status plants, including, but not limited to, the Cambria morning glory, Carmel Valley bush mallow, compact cobwebby thistle, most beautiful jewel-flower, Obispo Indian paintbrush, and woodland woollythreads. The CCSD shall make every effort to avoid the removal of identified special-status plants during construction activities. If the removal of such plants cannot be avoided, the CCSD shall transplant them on the subject property. (E-CDP Condition 23)

BIO-2 Upland Vegetation. Prior to Project completion, whichever occurs first, disturbed areas within the Project boundaries shall be revegetated with an assemblage of native riparian, wetland, and upland vegetation suitable for the area. Locally collected plant materials shall be used to the extent practical. Invasive, exotic plants shall be prohibited. This measure shall apply to all disturbed areas unless determined not practical or feasible by the County. (E-CDP Condition 18)

BIO-3 Within one year of SEIR certification, and within 90 days following the completion of all regulatory approvals necessary to allow for the extension of the lagoon water discharge (whichever occurs last), and to avoid biasing Well 16D1 water quality samples (as requested by the RWQCB) and more efficiently deliver surface water into San Simeon Creek to maintain water levels at San Simeon Creek Lagoon, the CCSD shall remove the surface discharge structure and relocate the surface discharge point further south to the San Simeon Creek bank. At the discharge point, articulating concrete block (ACB) (Armorflex or similar) lining shall be installed to protect the northern San Simeon Creek channel bank from erosion. The lining shall allow for the continued growth of riparian vegetation, further protecting the channel from any potential erosion and avoiding/reducing any sedimentation within the water bodies.

BIO-4 Trash and Construction Debris. During construction/ground disturbing activities, all trash that may attract CRLF predators shall be properly contained, removed from the work site, and disposed of regularly. Prior to Project completion, all trash and construction debris shall be removed from work areas. (E-CDP Condition 16)

BIO-5 Construction Equipment. During construction/ground disturbing activities, all refueling, maintenance, and staging of equipment and vehicles shall occur at least 100 feet from riparian habitat or water bodies and not in a location from where a spill would drain directly toward aquatic habitat. The monitor shall ensure contamination of habitat does not occur during such operations. Prior to commencement of grading/ construction activities, the monitor shall ensure that a plan is in place for prompt and effective response to any accidental spills. All workers shall be informed of the importance of preventing spills and appropriate measures to take should a spill occur. (E-CDP Condition 17)

BIO-6 Construction-Related Water Quality. Best Management Practices (BMPs) shall be implemented during construction to minimize sediment from entering nearby water bodies or prominent drainage courses. During/after construction/ground disturbing activities, if these BMPs are ineffective, the CCSD shall work with the monitor/biologist and resident engineer, in consultation with USFWS, to install effective measures prior to the next rain event. (E-CDP Condition 20)

BIO-7 Adaptive Management Plan. The CCSD shall develop and implement an Adaptive Management Program (AMP) for post construction operations upon commencement of SWF operations. The AMP shall be incorporated while the SWF is operating and indefinitely until the SWF is no longer in use or until deemed no longer necessary by applicable regulatory agencies. The AMP is intended to monitor and protect the lagoon, creek, and riparian habitats adjacent to the Project site and, by extension, protect the species that inhabit it. The AMP's primary goal shall be to monitor the response of the lagoon, creeks, and riparian habitats to SWF operations. This shall include, but not be limited to, the following:

- Regular monitoring of groundwater levels, surface water levels, surface water flow, in-stream and riparian habitat extent and health, available in-stream and fish habitat, and water quality;
- Surveys for tidewater goby, steelhead, CRLF, western pond turtle, and/or two-striped garter snake a minimum of two times per year to measure population levels over time; and
- Monitoring of riparian vegetation in the water bodies and in their upland extents.

Based on the results of the biological monitoring and any noted adverse changes in these habitats, SWF operations shall be adjusted such that the amount of treated water that is injected or discharged back into the system, is either increased or decreased to restore affected habitat features. It is expected that the minimum amount of water returned at any time would be 100 gpm.

BIO-8 Construction Fencing. Sturdy and highly visible protective fencing shall be placed around all existing trees and riparian vegetation within 50 feet of the Project site. Plan notes shall indicate this fence shall remain in place for the duration of Project construction. (E-CDP Condition 12)

BIO-9 CRLF Pre-Construction Survey. Prior to commencement of grading activities, a USFWS-approved biologist shall survey the Project site 48 hours before the onset of work activities. If any life stage of the California Red-legged Frog (CRLF) is found and these individuals are likely to be killed or injured by work activities, the biologist shall be allowed sufficient time to move them from the site before work activities begin. The biologist shall relocate the CRLF the shortest distance possible to a location that contains suitable habitat and shall not be affected by activities associated with the proposed Project. The biologist shall maintain detailed records of any individuals that are moved (e.g., size, coloration, distinguishing features, digital images, etc.) to assist in determining whether translocated animals are returning to the original point of capture. (E-CDP Condition 13)

BIO-10 Construction Personnel Training. Prior to commencement of grading activities, a USFWS-approved biologist shall conduct a training session for all construction personnel. At a minimum, the training shall include a description of the CRLF and its habitat, the specific measures that are being implemented to conserve the CRLF for the current Project, and the boundaries within which the Project may be accomplished. Brochures, books, and briefings may be used in the training session, provided that a qualified person is on hand to answer any questions. (E-CDP Condition 14)

BIO-11 CRLF Monitor. A USFWS-approved biologist shall be present at the work site until all CRLF have been removed, workers have been instructed, and disturbance of habitat has been completed. After this time, the County shall designate a person to monitor onsite compliance with all minimization measures. The biologist shall ensure that this monitor receives the training outlined above and in the identification of CRLF. If the monitor/biologist determine CRLF impacts are greater than anticipated or approved, work shall stop until the issue is resolved. The monitor/biologist shall immediately contact the resident engineer (the engineer overseeing and in command of the construction activities), where the resident engineer shall either resolve the situation by eliminating the effect immediately, or require that all actions which are causing these effects be halted. If work is stopped, the County/ USFWS shall be notified as soon as is reasonably possible. (E-CDP Condition 15)

BIO-12 Site Topography. Prior to Project completion, whichever occurs first, to the extent practical, contours shall be returned to as close to original, unless it is determined by the biologist that the new contours provide greater benefit for the CRLF. (E-CDP Condition 19)

BIO-13 Water Impoundment. Unless approved by the USFWS, water shall not be impounded in a manner that may attract CRLF. (E-CDP Condition 21)

BIO-14 Project Completion Report. Prior to Project completion, the CCSD shall submit to the County and USFWS, a Project completion report form, completed by the USFWS-approved biologist. The report form shall identify any recommended modifications or protective measures, if additional stipulations to protect CRLF are warranted, or if alternative measures would facilitate compliance with the provisions of this consultation. (E-CDP Condition 22)

BIO-15 Groundwater Pumping – Biological Monitoring. Ongoing during SWF operations, the CCSD shall continue with its existing efforts to monitor the creek habitat adjacent to, and downstream from the Project area, as required by the AMP. Should migrating steelhead reappear within the San Simeon Creek, the CCSD shall implement efforts to avoid potentially impacting their movement prior to the creek naturally running dry and flowing as subsurface flow during the dry season. Such efforts may include alternating the use of production wells between the San Simeon and Santa Rosa aquifers, discussing possible curtailments and/or coordination to pumping regimes being practiced by/with other riparian irrigators during such migration periods, invoking conservation/demand management measures, as well as operating the SWF to provide its lagoon water discharge.

BIO-16 Pre-Construction Bird Survey. No more than one week prior to construction, a qualified biologist shall conduct a preconstruction nesting bird clearance survey in all work areas and all areas within 500 feet of the general construction zone. Active nests shall be given an avoidance buffer, typically 300 feet for non-listed, non-raptor species, and 500 feet for listed or raptor species. This buffer shall remain in place until the young fledge or the nest otherwise becomes inactive, and may be reduced with approval from CDFW and/or USFWS.

BIO-17 Pre-Construction Bat Survey. If deemed necessary by the CDFW, a preconstruction roosting bat survey shall be conducted within one week prior to construction. Any bat roosts found in the Project vicinity shall be protected with coordination from CDFW.

**Level of Significance:** Less Than Significant With Mitigation Incorporated.

# IMPACT 5.3-2 RIPARIAN HABITAT OR OTHER SENSITIVE NATURAL COMMUNITY

- **WOULD THE PROJECT HAVE A SUBSTANTIAL ADVERSE EFFECT ON ANY RIPARIAN HABITAT OR OTHER SENSITIVE NATURAL COMMUNITY IDENTIFIED IN LOCAL OR REGIONAL PLANS, POLICIES, AND REGULATIONS OR BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME [WILDLIFE] OR U.S. FISH AND WILDLIFE SERVICE?**

**Impact Analysis:** There are previously recorded riparian habitat and other sensitive natural communities within the Project site.

**SUSTAINABLE WATER FACILITY**

**Survey Results**. The Project site contains two intermittent creeks (San Simeon Creek and Van Gordon Creek) and one wetland (San Simeon Creek Lagoon). A JD was completed to determine specific jurisdictional acreages. Additionally, an update to the JD was prepared to update the 2014 JD to reflect the currently proposed Project. As indicated in Table 5.3-3 and illustrated on Exhibit 5.3-3, approximately 53.76 acres of CDFW jurisdictional riparian vegetation are located within the Project site.

**Avoidance and Minimization Efforts.**

- *SWF:* The RO concentrate disposal and filtrate pipelines both cross under Van Gordon Creek. However, horizontal directional drilling construction was used to install these pipeline reaches under Van Gordon Creek without disturbing the ground surface. This pipeline installation was coordinated with the biological monitor with entrance and exit pits located outside of the tree drip line. Impacts to riparian vegetation along Van Gordon Creek were avoided.

- *Project Modifications:* Project modifications to the San Simeon Creek Lagoon surface discharge involves a discharge point at the San Simeon Creek bank. Construction would occur within the terrestrial extent of the riparian vegetation. Specifically, a pipeline would traverse the riparian vegetation extending to the San Simeon Creek bank. Although this pipeline would be constructed above-ground, due to the density of vegetation, minor vegetation removal would be required to construct the pipeline path and discharge structure. Vegetation disturbance would be limited to the minimum amount necessary to extend the pipeline to the creek bank and construct the discharge structure. The filtrate pipeline would be routed/placed by hand to protect the riparian habitat. Standard BMPs would be implemented to prevent sedimentation into the lagoon during this construction.

Impacts to riparian vegetation along Van Gordon Creek would be avoided. The Project modifications involve a discharge point at the San Simeon Creek bank. Construction would occur within the terrestrial extent of the riparian vegetation. Specifically, a pipeline would traverse the riparian vegetation extending to the San Simeon Creek bank. Although this pipeline would be constructed above-ground, due to the density of vegetation, minor vegetation removal would be required to construct the pipeline path and discharge structure. Vegetation disturbance would be limited to the minimum amount necessary to extend the pipeline to the creek bank and construct the discharge structure. The filtrate pipeline would be routed/placed by hand to protect the riparian habitat. At the discharge point, ACB lining is proposed. Standard BMPs would be implemented to prevent sedimentation into the lagoon during this construction.

**SUSTAINABLE WATER FACILITY**

**SWF Direct and Indirect Impacts.** Vegetation removal would be required to construct an extension to the 4-inch diameter lagoon water pipeline and the associated placement of relocated discharge structure at the northern bank of the San Simeon Creek (BIO-3). The lagoon water filtrate pipeline extension would be routed/placed by hand to protect the riparian habitat. No CDFW jurisdictional riparian vegetation would be impacted by the SWF; also see Impact 5.3-3 below. However, potentially significant indirect impacts could occur as a result of SWF implementation and groundwater loss. In addition to these potential effects, SWF implementation and operation may result in degradation of riparian habitat. Drawdown of the water table could have adverse effects on riparian vegetation near the vicinity of extraction well 9P7, eventually resulting in loss or conversion of vegetation. If this is a seasonal drawdown, it may only result in seasonal impacts (e.g., temporary browning or loss of vitality of vegetation). However, if SWF operation results in permanent, gradual, and cumulatively reduced groundwater levels, riparian vegetation may suffer permanent effects.

If the water table depth has any direct correlation to the amount and longevity of surface water, reductions in surface water may lead to reduced growth rates and plant mortality, eventually leading to reduced plant cover and reduced plant species diversity as a result of prolonged low flows (Nilsson and Svedmark 2002). This is because during the dry season, the increased ambient temperatures cause increased transpiration in plants, resulting in increased water loss from leaves. It is noted, however, the U.S. Geological Survey has found that the lower reaches of the creek (such as traverse the Project site) flow subterranean during the dry season due to natural dry-season water level decline (i.e., decline without any pumping occurring). Water replenishment is less crucial during the wet season, as temperatures are cooler, transpiration rates are lower, and rainfall adds to the water that is already present in streambeds. In the dry season, however, plants can become stressed more easily during low water conditions. While phreatophytic—vegetation that draws water from both above and below the surface—and more drought-tolerant vegetation like Fremont's cottonwood (*Populus fremontii*), willows (*Salix* sp.), and mulefat (*Baccharis salicifolia*) may persist longer under dryer conditions, shallow-rooted and

streamside vegetation would be expected to be more susceptible to general reductions in water levels (Stromberg et al. 2007). Additionally, nutrient-cycling organic litter decomposition that is normally aided by downstream water movement may be reduced by low surface flows (Nilsson and Svedmark 2002).

To minimize impacts to riparian vegetation, the SWF is subject to compliance with Mitigation Measures BIO-4 (E-CDP Condition 16), BIO-5 (E-CDP Condition 17), BIO-6 (E-CDP Condition 20), and BIO-8 (E-CDP Condition 12), as described above. Additionally, Mitigation Measure BIO-7 requires implementation of an AMP for long-term SWF operations. The AMP is intended to monitor and protect riparian habitats (as well as the creeks and lagoon). The AMP's primary goal is to monitor the response of the lagoon, creeks, and riparian habitats to SWF operations. Riparian vegetation monitoring is required, as part of the AMP. Specifically, California Rapid Assessment Method (CRAM) analyses would be performed for the riparian vegetation found along Van Gordon Creek, San Simeon Creek, and the area surrounding San Simeon Creek Lagoon, as a means of assessing the habitat's health. Finally, Mitigation Measure BIO-18 requires that the lagoon discharge structure be designed to avoid impacts to riparian habitat to the greatest extent feasible, and that the CCSD comply with all applicable local, state, and federal regulations concerning impacts to riparian habitat, including Clean Water Act (CWA) Sections 401 and 404, and/or California Fish and Wildlife Code Section 1602. Finally, Mitigation Measure BIO-19 requires that the CCSD minimize the disturbance and removal of riparian vegetation, to the extent possible.

Coastal streams, riparian areas, and wetlands, such as are present on the Project site, are ESHA, which are protected through compliance with CZLUO Section 23.07.170 (Environmentally Sensitive Habitats), CZLUO Section 23.07.172 (Wetlands), and CZLUO Section 23.07.174 (Streams and Riparian Vegetation).[6] Refer to Impact 5.3-5 below for a discussion of the SWF's compliance with these CZLUO Sections. Refer to Section 5.6, *Land Use and Planning*, for further discussion concerning the SWF's consistency with LCP policies.

**SWF Construction-Related Measures/Standards:**

Compliance with construction-related measures/ standards occurred before/during the SWF's construction phase. Mitigation Measures BIO-4 (E-CDP Condition 16), BIO-5 (E-CDP Condition 17), BIO-8 (E-CDP Condition 12), and BIO-6 (E-CDP Condition 20) were implemented during construction/ground disturbing activities, as discussed above.

**Standards and Regulations:** Refer to Impact 5.3-5 below.

**Mitigation Measures:** See Mitigation Measures BIO-4 through BIO 6 above and the following.

[6] CZLUO Sections 23.07.176 and 23.07.178 also address ESHA, however, pertain to terrestrial and marine habitat ESHA, respectively, which would not be impacted by the Project.

BIO-18 The lagoon surface discharge structure shall be designed to avoid impacts to riparian habitat to the greatest extent feasible, while taking into account site and engineering constraints, including incorporating design revisions to relocate features and/or reduce water quality impacts. If riparian impacts cannot be avoided, the following measures shall be implemented within 180 days of SEIR certification (or Prior to Regular CDP issuance), to reduce identified impacts to less than significant:

- The CCSD shall comply with all applicable local, state, and federal regulations concerning impacts to riparian habitat, including Clean Water Act (CWA) Sections 401 and 404, and/or California Fish and Wildlife Code Section 1602. Specifically, the CCSD shall obtain a Section 401 Permit under the federal CWA from the RWQCB, a Section 404 Permit under the federal CWA from ACOE, and a Section 1602 Permit under the FGC from the CDFW. All permit requirements shall be followed.

- In support of the regulatory agency wetland permitting process described above, a wetland delineation shall be conducted for the Project modifications (filtrate pipeline extension and discharge structure) to determine the presence and extent of jurisdictional wetlands and other waters of the U.S., and the Project impacts. The wetland delineation shall be conducted according to the protocols set forth by the ACOE.

- Impacted riparian habitat shall be mitigated at a 1:1 replacement-to-loss ratio; the final mitigation amounts shall be determined during the regulatory agency permitting process through the preparation of a Habitat Mitigation and Monitoring Plan (HMMP) by a qualified biologist. It is expected that the riparian mitigation site can occur within the Project boundaries. The HMMP shall include but not be limited to a planting plan, success criteria, monitoring protocols to determine if success criteria have been met, adaptive management protocols in the event success criteria are not met, and funding assurances.

BIO-19 The CCSD shall minimize to the extent possible the disturbance and removal of riparian vegetation in the vicinity of San Simeon Creek Lagoon during the construction and placement of the mitigation water pipeline. All efforts shall be made to avoid creating a permanent pathway through the vegetation while constructing the pipeline. The pipeline shall in addition contain an adequate velocity dissipation mechanism to avoid creating any scour or deterioration of the upland habitat.

**Level of Significance:** Less Than Significant With Mitigation Incorporated.

# IMPACT 5.3-3 WETLANDS AND JURISDICTIONAL WATERS

- **WOULD THE PROJECT HAVE A SUBSTANTIAL ADVERSE EFFECT ON FEDERALLY PROTECTED WETLANDS AS DEFINED BY CLEAN WATER ACT SECTION 404?**

**Impact Analysis:** A JD was completed to determine specific jurisdictional acreages and potential impacts, as described below. Additionally, an update to the JD was prepared in August 2016 to update the 2014 JD to reflect the currently proposed Project.

Since preparation of the 2014, the SWF Project was further modified, in order to avoid impacts associated with the RO concentrate disposal and filtrate pipelines, which both were proposed (at the time of 2014 JD preparation) to cross Van Gordon Creek where wetlands and jurisdictional waters are present. However, as discussed in detail below, horizontal directional drilling construction was used to install these pipeline reaches under Van Gordon Creek without disturbing the ground surface. Thus, the impacts identified in the 2014 JD were avoided; also see SWF discussion that follows.

**Avoidance and Minimization Efforts.**

- *SWF:* The RO concentrate disposal and filtrate pipelines both cross under Van Gordon Creek where wetlands and jurisdictional waters are present. However, horizontal directional drilling construction was used to install these pipeline reaches under Van Gordon Creek without disturbing the ground surface. This pipeline installation was coordinated with the biological monitor with entrance and exit pits located outside of the tree drip line. Thus, Van Gordon Creek and associated riparian vegetation are avoided. As discussed above, 100 gpm of mitigation water is pumped during dry weather conditions for surface discharge to the upstream end of the San Simeon Creek Lagoon. San Simeon Creek and associated riparian vegetation were also avoided during construction. BMPs would be used as necessary to avoid or reduce any sedimentation within the water bodies.

- *Project Modifications:* None of the Project modifications would traverse Van Gordon Creek riparian habitat. As discussed above, 100 gpm of mitigation water is pumped during dry weather conditions for surface discharge to the upstream end of the San Simeon Creek Lagoon. The Project modifications propose to extend the filtrate pipeline to relocate the discharge point further south to the San Simeon Creek bank to more efficiently deliver surface water into San Simeon Creek to maintain water levels at San Simeon Creek Lagoon. This pipeline, which would traverse the riparian vegetation extending to the San Simeon Creek bank, would be constructed above-ground to ensure impacts to riparian vegetation are minimized. Vegetation disturbance would be limited to the minimum amount necessary to extend the pipeline to the creek bank. The filtrate pipeline would be routed/placed by hand to protect the riparian habitat. At the discharge point at the San

Simeon Creek bank, ACB lining is proposed to protect the San Simeon Creek channel banks from erosion. BMPs would be used as necessary to avoid or reduce any sedimentation within the water bodies.

**Direct and Indirect Impacts.** The impacts to wetlands and jurisdictional waters are discussed below.

**U.S. Army Corps of Engineers Determination**

The onsite Corps jurisdictional areas and the Project's potential impacts are summarized in Table 5.3-5, *Corps/Regional Board Jurisdictional Areas and Potential Project Impacts*, illustrated on Exhibit 5.3-6, *Corps/Regional Board Jurisdictional Map - Impacts*, and discussed below.

- *SWF:* As indicated in Table 5.3-5, the SWF would not impact Corps jurisdiction including Corps jurisdictional wetlands.

- *Project Modifications:* The Project modifications (filtrate pipeline extension, temporary access path, and discharge structure (ACB or other)) would impact approximately 0.003 acre of non-wetland Corps jurisdiction. No Corps jurisdictional wetlands would be impacted; see Table 5.3-5.

**Table 5.3-5**
**Corps/Regional Board Jurisdictional Areas and Potential Project Impacts**

| Jurisdictional Feature | Total Onsite Jurisdiction | | | | Impacted Jurisdiction | | | |
|---|---|---|---|---|---|---|---|---|
| | Non-Wetland | | Wetland | | Non-Wetland | | Wetland | |
| | Acreage | Linear Feet | Acreage | Linear Feet | Acreage | Linear Feet | Acreage | Linear Feet |
| San Simeon Creek | 5.94 | 6,792 | 0.39 | -- | | | | |
| • SWF | | | | | -- | -- | -- | -- |
| • Project Modifications | | | | | -- | -- | -- | -- |
| Van Gordon Creek | 0.77 | 2,233 | -- | -- | | | | |
| • SWF | | | | | -- | -- | -- | -- |
| • Project Modifications | | | | | 0.003 | -- | -- | -- |
| ***Total*** | ***6.71*** | ***9,025*** | ***0.39*** | ***0.0*** | ***0.003*** | ***0.0*** | ***0.0*** | ***0.0*** |

Sources: Michael Baker International, *Cambria Emergency Water Supply Project Delineation of State and Federal Jurisdictional Waters Table 1*, October 2015; and *Cambria Sustainable Water Facility Project Delineation of State and Federal Jurisdictional Waters - Update*, Table 1, August 2016.

**California Department of Fish and Wildlife Determination**

The onsite CDFW jurisdictional areas and the Project's potential impacts are summarized in Table 5.3-6, *CDFW Jurisdictional Areas and Potential Project Impacts*, illustrated on Exhibit 5.3-7, *CDFW Jurisdictional Map – Impacts*, and discussed below.

**Table 5.3-6**
**CDFW Jurisdictional Areas and Potential Project Impacts**

| Jurisdictional Feature | Total Onsite Jurisdiction | | | | Impacted Jurisdiction | | | |
|---|---|---|---|---|---|---|---|---|
| | Streambed | | Associated Vegetation | | Streambed | | Associated Vegetation | |
| | Acreage | Linear Feet | Acreage | Linear Feet | Acreage | Linear Feet | Acreage | Linear Feet |
| San Simeon Creek | 5.94 | 6,792 | 45.17 | -- | | | | |
| • SWF | | | | | -- | -- | -- | -- |
| • Project Modifications | | | | | 0.042 | -- | -- | -- |
| Van Gordon Creek | 0.77 | 2,233 | 8.59 | -- | | | | |
| • SWF | | | | | -- | -- | -- | -- |
| • Project Modifications | | | | | -- | -- | -- | -- |
| ***Total*** | ***6.71*** | ***9,025*** | ***53.76*** | ***0.0*** | ***0.042*** | ***0.0*** | ***0.0*** | ***0.0*** |

Source: Michael Baker International, *Cambria Emergency Water Supply Project Delineation of State and Federal Jurisdictional Waters Table 2*, October 2015; and *Cambria Sustainable Water Facility Project Delineation of State and Federal Jurisdictional Waters - Update*, Table 2, August 2016..

- *SWF:* As indicated in Table 5.3-6, the SWF would not impact CDFW jurisdictional streambed. Additionally, no CDFW jurisdictional riparian vegetation would be impacted.

- *Project Modifications:* As indicated in Table 5.3-6, the Project modifications (filtrate pipeline extension, temporary access path, and discharge structure) would impact 0.042 acre of CDFW jurisdictional streambed. No CDFW jurisdictional riparian vegetation would be impacted.

**California Coastal Commission Determination**

The onsite CCC jurisdictional areas and the Project's potential impacts are summarized in Table 5.3-7, *CCC Jurisdictional Areas and Potential Project Impacts*, illustrated on Exhibit 5.3-8, *CCC Jurisdictional Map - Impacts*, and discussed below.

**Table 5.3-7**
**CCC Jurisdictional Areas and Potential Project Impacts**

| Jurisdictional Feature | Total Onsite Jurisdiction | | | | Impacted Jurisdiction | | | |
|---|---|---|---|---|---|---|---|---|
| | Stream | | Wetland | | Stream | | Wetland | |
| | Acreage | Linear Feet | Acreage | Linear Feet | Acreage | Linear Feet | Acreage | Linear Feet |
| San Simeon Creek | 5.94 | 6,792 | 46.06 | -- | | | | |
| • SWF | | | | | -- | -- | -- | -- |
| • Project Modifications | | | | | -- | -- | 0.042 | -- |
| Van Gordon Creek | 0.77 | 2,233 | 8.59 | -- | | | | |
| • SWF | | | | | -- | -- | -- | -- |
| • Project Modifications | | | | | -- | -- | -- | -- |
| ***Total*** | ***6.71*** | ***9,025*** | ***54.65*** | ***0.0*** | ***0.0*** | ***0.0*** | ***0.042*** | ***0.0*** |

Source: Michael Baker International, *Cambria Emergency Water Supply Project Delineation of State and Federal Jurisdictional Waters Table 3*, October 2015; and *Cambria Sustainable Water Facility Project Delineation of State and Federal Jurisdictional Waters - Update*, Table 3, August 2016.

- *SWF:* As indicated in Table 5.3-7, the SWF would not impact CCC jurisdictional stream. Additionally, the SWF would not impact CCC jurisdictional wetland.

- *Project Modifications:* The Project modifications (filtrate pipeline extension, temporary access path, and discharge structure) would not impact any CCC jurisdictional stream. The Project modifications would impact approximately 0.042 acre of CCC jurisdictional wetland; see Table 5.3-7.

**SUSTAINABLE WATER FACILITY - CONCLUSION**

Potentially significant indirect impacts could occur as a result of SWF implementation and groundwater loss. The GMR included detailed hydrogeological modeling and found that the 100 gpm of mitigation water would maintain water levels in the lagoon, thereby avoiding potential impacts on wetland habitat. Further, the Technical Memorandum concluded that under normal climatic conditions, flows of 50 gpm, which would be one-half of the proposed 100 gpm mitigation flow, would be sufficient to maintain lagoon levels similar to conditions without the SWF. Based on the GMR's and Technical Memorandum's findings, the 100 gpm mitigation flow to the lagoon would maintain water levels in the lagoon. Notwithstanding, Mitigation Measure BIO-7 requires implementation of an AMP for long-term SWF operations. The AMP is intended to monitor and protect the creeks, lagoon, and onsite habitats. The AMP's primary goal is to monitor the response of the lagoon, creeks, and riparian habitats to SWF operations. With implementation of the AMP (Mitigation Measure BIO-7), the wetland habitats would be protected.

**SWF Construction-Related Measures/Standards:** Compliance with construction-related measures/ standards occurred before/during the SWF's construction phase. Mitigation Measures BIO-4 (E-CDP Condition 16), BIO-5 (E-CDP Condition 17), BIO-8 (E-CDP Condition 12), and BIO-6 (E-CDP Condition 20) were implemented during construction/ground disturbing activities, as discussed above.

**MITIGATION MEASURES (PROJECT MODIFICATIONS)**

Potentially significant indirect impacts could occur as a result of SWF implementation and groundwater loss. Mitigation Measure BIO-18 requires that the surface discharge extension be designed to avoid impacts to riparian habitat to the greatest extent feasible, and that the CCSD comply with all applicable local, state, and federal regulations concerning impacts to riparian habitat, including CWA Sections 401 and 404, and/or California Fish and Wildlife Code Section 1602. Finally, Mitigation Measure BIO-19 requires that the CCSD minimize the disturbance and removal of riparian vegetation, to the extent possible. Overall, the Project modifications' direct impacts to wetlands and jurisdictional waters would be considered a significant impact unless mitigated. . To minimize impacts to wetlands and jurisdictional waters, the Project modifications would be subject to compliance with Mitigation Measures BIO-4, BIO-5, BIO-6, and BIO-8, as described above.

As previously noted, coastal streams, riparian areas, and wetlands, such as are present on the Project site, are ESHA, which are protected through compliance with CZLUO Sections 23.07.170, 23.07.172, and 23.07.174. Refer to Impact 5.3-5 below for a discussion of the Project modifications' compliance with CZLUO Section 23.07.170 (Environmentally Sensitive Habitats), CZLUO Section 23.07.172 (Wetlands), and CZLUO Section 23.07.174 (Streams and Riparian Vegetation). Refer also to Section 5.6, *Land Use and Planning*, for further discussion concerning the Project modifications' consistency with these policies.

**Standards and Regulations:** Refer to Impact 5.3-5 below.

**Mitigation Measures:** See Mitigation Measures BIO-4 through BIO-8, BIO-18, and BIO-19 above.

**Level of Significance:** Less Than Significant With Mitigation Incorporated.

# IMPACT 5.3-4 WILDLIFE MOVEMENT

- **WOULD THE PROJECT INTERFERE SUBSTANTIALLY WITH THE MOVEMENT OF ANY NATIVE RESIDENT OR MIGRATORY FISH OR WILDLIFE SPECIES OR WITH ESTABLISHED NATIVE RESIDENT OR MIGRATORY WILDLIFE CORRIDORS, OR IMPEDE THE USE OF NATIVE WILDLIFE NURSERY SITES?**

## Impact Analysis:

**Survey Results.** Although not observed during the habitat assessment or CRLF surveys, steelhead trout are known to migrate up and down San Simeon Creek. Adult steelhead migrate from the ocean upstream into San Simeon Creek between December and May, and smolts migrate downstream toward the ocean between March and June. Several mule deer (*Odocoileus hemionus*) were observed in the percolation ponds and likely utilize the riparian corridor to make movements up and down the stream between foraging, fawning, and shelter areas, as well as other critical habitat types. Feral pigs were observed in the area both during the habitat assessment and during CRLF surveys; it is expected that they live within the dense riparian vegetation and use the vegetation as a movement corridor. Other large mammals may utilize the riparian corridors to move in cover, particularly between habitat near the coast and habitat in the Santa Lucia Mountains. Birds likely use the riparian corridor for movements. Migratory birds are protected by the MBTA and FGC. The Project site is located within and adjacent to suitable nesting habitat for a variety of avian species.

**Avoidance and Minimization Efforts.**

- *SWF:* The RO concentrate disposal and filtrate pipelines both cross under Van Gordon Creek. However, horizontal directional drilling construction was used to install these pipeline reaches under Van Gordon Creek without disturbing the ground surface. This pipeline installation was coordinated with the biological monitor with entrance and exit pits located outside of the tree drip line. Thus, impacts to the Van Gordon Creek corridor were avoided during SWF construction. No SWF improvements are proposed in the San Simeon Creek corridor, thus, avoiding impacts.

  The RO concentrate and chemical cleaning waste is contained in the evaporation pond. The RO concentrate is evaporated through natural evaporation, as well as mechanical spray evaporators. Although the waste stream constituents are considered non-hazardous (see Section 8.0), avian and other wildlife could be attracted to the pond due to the presence of standing water and adversely impacted by the RO concentrate's hypersalinity. The SWF employs deterrent and exclusion methods to prohibit entry of terrestrial wildlife into the evaporation pond area. The four-foot high CRLF exclusion fence installed along the pond's perimeter prevents CRLF, as well as various other terrestrial wildlife, from entry into the pond area. When operational, the evaporators

spray water with some force across the pond, disturbing the birds and reducing their likelihood of landing or staying for significant periods of time.

- *Project Modifications:* As discussed above, the Project's 100 gpm lagoon water is provided during dry weather conditions for surface discharge to the upstream end of the San Simeon Creek Lagoon. The Project modifications involve placing the surface discharge point further south to the San Simeon Creek bank, resulting in construction within the San Simeon Creek corridor. A 4-inch diameter lagoon water pipeline extension would traverse the corridor's riparian vegetation to the northern bank of the San Simeon Creek. This pipeline would be constructed above-ground to ensure impacts to the corridor are minimized. At the discharge point, ACB lining is proposed to protect the San Simeon Creek channel bank from erosion. The lagoon water filtrate pipeline would be routed/placed by hand to protect the habitat. Vegetation disturbance would be limited to the minimum amount necessary to extend the pipeline to the creek bank and construct the discharge structure.

**SUSTAINABLE WATER FACILITY**

**SWF Direct and Indirect Impacts.** Movements of terrestrial and avian species could be affected and deterred by active construction. However, the movement corridors are not expected to be directly impacted, since no SWF improvement is proposed in the creek corridors.

San Simeon Creek, San Simeon Creek Lagoon, and Van Gordon Creek could experience indirect SWF-related effects, as a result of drawdown in the water table. If the depth of the water table has a strong correlation with the amount of surface water available in these water bodies, it may result in early seasonal cuts in aboveground water supplies. This would in turn degrade the quality of the movement corridor and potentially render it unusable by animals that are strictly confined to aquatic movement (e.g., fish). Thus, impacts to movement corridors would be significant unless mitigated. However, the SWF returns 100 gpm to the San Simeon Creek Lagoon and 452 gpm are re-injected into the San Simeon Creek aquifer further up-gradient at the well field. Mitigation Measure BIO-3 requires that the lagoon water filtrate pipeline be extended to relocate the discharge point further south to the northern San Simeon Creek bank to more efficiently deliver surface water into San Simeon Creek to maintain water levels at San Simeon Creek Lagoon. The GMR included detailed hydrogeological modeling and found that the 100 gpm of mitigation water would maintain water levels in the lagoon. Further, the Technical Memorandum concluded that under normal climatic conditions, flows of 50 gpm, which would be one-half of the proposed 100 gpm mitigation flow, would be sufficient to maintain lagoon levels similar to conditions without the SWF. Based on the GMR's and Technical Memorandum's findings, the 100 gpm mitigation flow to the lagoon would maintain water levels in the lagoon. Notwithstanding, Mitigation Measure BIO-7 requires implementation of an AMP for long-term SWF operations. Monitoring would be required as part of the AMP to ensure that creek/lagoon levels are maintained during SWF operations. The U.S. Geological Survey has found that the

lower reaches of the creek (such as traverse the Project site) flow subterranean during the dry season due to natural dry-season water level decline (i.e., decline without any pumping occurring). Thus, the creek would normally not be inundated during the six dry months of the year when the SWF would operate, discharging 100 gpm of mitigation water. With implementation of the AMP (Mitigation Measure BIO-7), the lagoon and creek habitats would be protected, and by extension, the wildlife movement corridors, as well. To further minimize impacts to the movement corridors, the SWF is subject to compliance with Mitigation Measures BIO-4 (E-CDP Condition 16), BIO-5 (E-CDP Condition 17), BIO-6 (E-CDP Condition 20), and BIO-8 (E-CDP Condition 12), as described above. Mitigation Measure BIO-7 requires implementation of an AMP, which is intended to monitor and protect the creeks, lagoon, and onsite habitats. The AMP's primary goal is to monitor the response of the lagoon, creeks, and riparian habitats to SWF operations. Mitigation Measure BIO-18 requires that the lagoon discharge structure be designed to avoid impacts to riparian habitat to the greatest extent feasible. Finally, Mitigation Measure BIO-19 requires that the CCSD minimize the disturbance and removal of riparian vegetation, to the extent possible. Pursuant to the MBTA and FGC, the SWF is subject to compliance with Mitigation Measure BIO-16, which requires that a preconstruction nesting bird clearance survey be conducted in all work areas and all areas within 500 feet of the general construction zone.

**Evaporation Pond**

The RO concentrate and chemical cleaning waste is contained in the evaporation pond. The RO concentrate is evaporated through natural evaporation, as well as mechanical spray evaporators. Although the waste stream constituents are considered non-hazardous, avian and other wildlife could be attracted to the pond due to the presence of standing water and adversely impacted by the RO concentrate's hypersalinity. The SWF employs deterrent and exclusion methods to prohibit entry of terrestrial wildlife into the pond area. The four-foot high CRLF exclusion fence installed along the pond's perimeter prevents CRLF, as well as various other terrestrial wildlife, from entry into the pond area. When operational, the evaporators spray water with some force across the pond, disturbing the birds and reducing their likelihood of landing or staying for significant periods of time. However, since the evaporators do not operate continuously, avian wildlife could still be attracted to the evaporation pond when/where the evaporators are not operational. Additionally, terrestrial wildlife capable of scaling over the fence could also access the water's edge to drink. Avian and other wildlife could be adversely impacted by the RO concentrate's hypersalinity.

Birds using the pond could ingest the RO concentrate and either suffer chronic effects or mortality from sodium toxicity. Birds can also ingest the RO concentrate while preening the salt crystals off their feathers. According to Wobeser and Howard (1987) and Gordus et al. (2002), salinity-related electrical conductivity exceeding 70,000 μmhos/cm in water can be lethal to birds. Sodium crystallizes on the feathers of birds landing in these ponds during cold weather. The thermoregulatory and buoyancy functions of the birds' feathers are impacted causing mortality due to drowning or hypothermia. Salt encrustation of feathers can impact the birds' ability to

forage and fly. Additionally, the birds could be neurologically impaired by sodium intoxication, which results in their inability to hold their head upright, causing their heads to droop into the water and resulting in mortality due to drowning.

A Hazing Study (*Report of Dr. Winston Vickers Regarding Restriction of Wildlife Access to Evaporation Pond*, December 16, 2015) was conducted to determine the best approach to haze/deter wildlife from the evaporation pond to avoid/lessen impacts to wildlife; see Appendix E5. The purpose of the Hazing Study was to examine the evaporation pond and advise the CCSD of methods to reduce the pond's negative wildlife impacts. According to the Hazing Study, although many different hazing tools are available to reduce attractiveness of a body of water to wildlife, and these individually and in groups can be very effective for variable periods of time, no hazing methods or groups of methods are typically effective for extended periods (months to years), if not continuously varied. Due to the proximity of public parkland and resultant noise restriction, the tools that could be deployed at the evaporation pond were determined to be limited primarily to non-audible tools such as flagging, balloons, effigies, "Air Ranger" type blow-up scare devices (scary man), radio controlled boats, physical human presence on the bank or in boats, live falcons, drones, projectiles fired near the animals (i.e., paint balls, lasers, etc.). These tools would have to be varied and monitored and maintained on a nearly constant basis, and would likely lose effectiveness over time even when continuously tended. In contrast, some deterrence or exclusion methods can be effective for longer periods (or indefinitely), but may be more expensive to install/maintain long term. Concerning the Project, the Hazing Study found that deterrence via exclusion is the approach that is most likely to be successful in accomplishing the goal of near complete reduction in risk to wildlife over long periods. As noted in the Hazing Study, exclusion is already being employed at the evaporation pond (via fencing) to eliminate entry of amphibians and reptiles to the pond area. The Hazing Study analyzed various strategies that could be considered that have the advantage of expected longer effectiveness. The Hazing Study concluded that a combination of buried fencing and netting, would afford the best likelihood of maximum wildlife restriction from the evaporation pond over long periods of time. Other options have functional shortcomings when compared to the total exclusion expected with these strategies.

Given that the Hazing Study's recommended strategy (fencing and netting) was being questioned as to its long-term capability to withstand high wind conditions, such as those brought on by winter storms, as well as having potential visual impacts, further mitigation was recommended. Mitigation Measure AES-2 requires removal of the mechanical spray evaporators and their enclosures. As a result, the Project modifications include offsite RO concentrate disposal and repurposing the evaporation pond as a potable water supply storage basin. The RO concentrate would be discharged to Baker tanks for storage prior to offsite disposal, instead of the evaporation pond. Thus, the evaporation pond would no longer be used to store RO concentrate and the repurposed pond (i.e., the potable water supply storage basin) would be filled with raw potable water. No changes to the frog-exclusion fence are proposed, as part of the Project modifications. The fence's integral climber barrier and HDPE matrix would remain to prevent CRLF from being

trapped within the fence. Therefore, the evaporation pond-related impacts to wildlife movement (terrestrial and avian) would be reduced to less than significant, with mitigation incorporated.

**SWF Construction-Related Measures/Standards:** Compliance with construction-related measures/ standards occurred before/during the SWF's construction phase. Mitigation Measures BIO-4 (E-CDP Condition 16), BIO-5 (E-CDP Condition 17), BIO-6 (E-CDP Condition 20), and BIO-8 (E-CDP Condition 12) were implemented during construction/ground disturbing activities, as discussed above.

**MITIGATION MEASURES (PROJECT MODIFICATIONS)**

**Project Modifications Direct and Indirect Impacts.** Movements of terrestrial and avian species could be affected and deterred by active construction of Project modifications. However, the movement corridors are not expected to be directly affected by Project modifications. The Project modifications involve placing the surface discharge point further south to the San Simeon Creek bank, resulting in construction within the San Simeon Creek corridor. A pipeline would traverse the corridor's riparian vegetation extending to the San Simeon Creek bank. The filtrate pipeline would be routed/placed by hand to protect the riparian habitat. This pipeline would be constructed above-ground to ensure impacts to the corridor are minimized. Vegetation disturbance would be limited to the minimum amount necessary to extend the pipeline to the creek bank and construct the discharge structure. Compliance with construction-related measures/standards before/during the Project modifications construction phase would be required, including Mitigation Measures BIO-4, BIO-5, BIO-6, BIO-8, and BIO-16. Impacts would be reduced to less than significant following compliance with the recommended mitigation.

Project modifications include offsite RO concentrate disposal and repurposing the evaporation pond as a potable water supply storage basin. The RO concentrate would be discharged to Baker tanks for storage prior to offsite disposal, instead of the evaporation pond. Thus, the evaporation pond would no longer be used to store RO concentrate and the repurposed pond (i.e., the potable water supply storage basin) would be filled with untreated (raw) potable water. Terrestrial and avian species could still be attracted to the potable water supply storage basin due to the presence of standing water. The four-foot high CRLF exclusion fence that exists along the evaporation pond's perimeter would be retained to prohibit wildlife entry into the potable water supply storage basin. Additionally, the fence's integral climber barrier and HDPE matrix would be retained. Given that the exclusionary fence would prohibit wildlife from entry to the potable water supply storage basin, and since the evaporation pond would no longer be used to store RO concentrate, but rather would be repurposed as a potable water supply storage basin, the Project modifications would result in less than significant impacts in this regard.

**Standards and Regulations:** Refer to Impact 5.3-5 below.

**Mitigation Measures:** See Mitigation Measures BIO-4 through BIO-8, and BIO-16 above.

**Level of Significance:** Less Than Significant With Mitigation Incorporated.

## IMPACT 5.3-5 CONSISTENCY WITH LOCAL POLICIES/ ORDINANCES – CZLUO & LCP

- **WOULD THE PROJECT CONFLICT WITH ANY LOCAL POLICIES OR ORDINANCES (I.E., CZLUO AND LCP) PROTECTING BIOLOGICAL RESOURCES?**

**Impact Analysis:** The LCP was implemented and approved to ensure the protection of San Luis Obispo County's Coastal Zone in compliance with the Coastal Act of 1976. CZLUO Section 23.01.033 (Consistency with the Land Use Element and Local Coastal Plan Required) specifies that when an application is accepted for processing, such application shall not be approved unless, among other requirements, the proposed use or division satisfies LCP policies, programs, and standards. According to CZLUO Section 23.01.010 (Title and Purpose), the CZLUO is intended (in part) to implement the San Luis Obispo County LCP (as well as the San Luis Obispo County General Plan). Coastal streams, riparian areas, and wetlands, such as are present on the Project site, are ESHA, which are protected through compliance with CZLUO Section 23.07.170 (Environmentally Sensitive Habitats), CZLUO Section 23.07.172 (Wetlands), and CZLUO Section 23.07.174 (Streams and Riparian Vegetation).

As concluded below, the SWF is in compliance with these CZLUO Sections. Compliance with these CZLUO Sections implements the following LCP Policies: 1, 2, 3, 7, 8, 13,* 16, 17, 18, 20,* 21,* 22,* 23,* 25, 26, 27, and 28 (*shall also be implemented as a standard). In compliance with CZLUO Section 23.01.033, the SWF satisfies LCP policies, programs, and standards; refer also to Table 5.6-1, *Coastal Act and Local Coastal Plan Policy Consistency*, and Table 5.6-3, *LCP Consistency Analysis*. Therefore, the SWF would not conflict with any local policies or ordinances protecting biological resources and a less than significant impact would occur in this regard.

**CZLUO Section 23.07.170 (Environmentally Sensitive Habitats)**

The provisions of this section are applicable to the Project, since it involves improvements within and adjacent to (within 100 feet of the boundary of) an ESHA. The SWF's product water, filtrate, and RO concentrate disposal pipelines are within 100 feet of an ESHA (wetlands, streams, and riparian vegetation). The Project modifications, including potable water pipeline 2 and the surface water pipeline, as well as the filtrate pipeline extension and surface discharge would also be within 100 feet of an ESHA.

The required findings for approval of the SWF Regular CDP are that (1) there would be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat; and (2) the proposed use will not significantly disrupt the habitat; see CZLUO Section 23.07.170.b.

To minimize impacts to ESHA wetlands, streams, and riparian vegetation, the Project is subject to compliance with Mitigation Measures BIO-4, BIO-5, BIO-6, and BIO-8; see discussion above. Mitigation Measure BIO-7 requires implementation of an AMP for long-term SWF operations. Mitigation Measure BIO-18 requires that the filtrate pipeline extension and surface discharge structure be designed to avoid impacts to riparian habitat to the greatest extent feasible, and that the CCSD comply with all applicable local, state, and federal regulations concerning impacts to riparian habitat, including CWA Sections 401 and 404, and/or California Fish and Wildlife Code Section 1602. Finally, Mitigation Measure BIO-19 requires that the CCSD minimize the disturbance and removal of riparian vegetation, to the extent possible. Thus, implementation of Mitigation Measures BIO-4, BIO-5, BIO-6, BIO-7, BIO-8, BIO-18, and BIO-19 would ensure the Project's compliance with CZLUO Section 23.07.170.b, reducing impacts to ESHA to less than significant.

According to CZLUO Section 23.07.170.e, development within an ESHA must be located in a manner, which avoids any significant disruption or degradation of habitat values. CZLUO Section 23.07.170.e also specifies that any project with potential to cause significant adverse impacts must reduce the impact to a less than significant level where complete avoidance is not possible. The pipeline alignments were determined based on the shortest distance between the two points that avoided both the riparian tree line to the maximum extent practicable, and avoided the existing cultural resources, as discussed in detail in Section 5.4, *Cultural Resources*. The vast majority (approximately 90 percent) of the SWF conveyance piping was installed above grade to minimize disturbance. Additionally, horizontal directional drilling construction was used to install SWF pipeline reaches under Van Gordon Creek without disturbing the ground surface, with entrance and exit pits located outside of the tree drip line. Thus, the SWF was designed and located to avoid significant disruption degradation of ESHA. The Project modifications included five new pipelines. However, with implementation of Mitigation Measures BIO-4, BIO-5, BIO-6, BIO-7, BIO-8, BIO-18, and BIO-19-19, Project impacts to ESHA, including riparian vegetation, would be less than significant.

Pursuant to CZLUO Section 23.07.170.e.1.iii, circumstances in which a development project would be allowable within an ESHA include essential incidental public services and utilities pursuant to ESHA Policy 13 and CZLUO Section 23.07.172.e. The SWF's product water, filtrate, and RO concentrate disposal pipelines, are allowable within the ESHA, since they involve water supply, an essential incidental public utility. Similarly, the Project modifications,' including potable water pipeline 2 and the surface water pipeline, as well as the filtrate pipeline extension and surface discharge would also be allowed within the ESHA, since they involve water supply. Moreover, as concluded in Table 5.6-3, *LCP Consistency Analysis*, the SWF and Project modifications are consistent with ESHA Policy 13.

Overall, implementation of Mitigation Measures BIO-4, BIO-5, BIO-6, BIO-7, BIO-8, BIO-18, and BIO-19-19 would reduce impacts to ESHA, including riparian vegetation, to less than significant, and ensure compliance with CZLUO Section 23.07.170.e.1.

**CZLUO Section 23.07.170.e.2 (Development in ESHA to Avoid a Taking)**

As discussed above, indirect operational impacts to tidewater goby, steelhead, and CRLF could occur as the result of Well 9P7 pumping groundwater in the vicinity of the percolation ponds, which is upstream from the San Simeon Creek Lagoon. To avoid these impacts, the Project included a PDF to provide 100 gpm of lagoon water during dry weather conditions for surface discharge at immediately upstream from the upper San Simeon Creek lagoon. This PDF includes an above-ground 4-inhc diameter lagoon water pipeline, which discharges into a surface discharge structure located just north of the San Simeon Creek treeline to create a sheet flow of mitigation water, prior to entering upstream of the San Simeon Creek Lagoon. The Project modifications involve extending the lagoon water filtrate pipeline to relocate the discharge point further south to the northern San Simeon Creek bank (Mitigation Measure BIO-3). The 4-inch diameter lagoon water pipeline extension would be routed/placed by hand to protect the riparian habitat. The proposed discharge at the creek bank would provide more efficient delivery of water to San Simeon Creek to maintain water levels in the lagoon. Thus, Project modifications' lagoon water filtrate pipeline and discharge structure, are proposed within and adjacent to (within 100 feet of the boundary of) an ESHA to minimize impacts to tidewater goby, steelhead, and CRLF (which constitute a take). Pursuant to CZLUO Section 23.07.170.e.2, development within an ESHA shall be: the least necessary to avoid take; avoided to the maximum extent feasible; and fully mitigated. The lagoon water filtrate pipeline alignment was determined based on the shortest distance between the SWF treatment facility and discharge point that avoided impacting sensitive resource areas to the maximum extent practicable, and avoided the existing cultural resources, as discussed in detail in Section 5.4, *Cultural Resources*. The majority (85 percent) of this 1,000-foot pipeline was installed above grade to minimize disturbance. The remaining 150 feet were installed using horizontal directional drilling construction without disturbing the ground surface. Therefore, impacts to tidewater goby, steelhead, and CRLF were avoided to the maximum extent feasible. Implementation of Mitigation Measures BIO-2 through BIO-6, and BIO-8 through BIO-19-19, would reduce potential impacts to tidewater gobies, steelhead, and CRLF to less than significant and ensure compliance with CZLUO Section 23.07.170.e.2.

**CZLUO Section 23.07.170.e.3 (Steelhead Stream Protection: Net Loss Stream Diversions Prohibited)**

CZLUO Section 23.07.170.e.3 states that diversions of surface and subsurface water will not be allowed if they will result in a significant adverse impact on steelhead runs. This Section applies to water supply wells that tap the subflow and similar water supply facilities that could significantly harm steelhead runs. Exceptions may be considered only where the impact cannot be avoided, is fully mitigated, and no significant disruption would result. The SWF is extracting groundwater from the groundwater basin below the wastewater effluent percolation ponds. The brackish water source is a combination of San Simeon Creek underflow, percolated treated wastewater effluent, and diluted seawater from a deep, saltwater wedge area. Specifically, the SWF pumps 629 gpm of groundwater upstream of San Simeon Creek Lagoon, of which: 452 gpm

are re-injected into the San Simeon Creek aquifer further up-gradient at the well field; 37 gpm of MF backwash are discharged at a percolation pond; and 39 gpm of RO concentrate are discharged at the evaporation pond. Additionally, the SWF returns 100 gpm to the San Simeon Creek Lagoon. Specifically, the Project's PDF includes lagoon water (non-chlorinated microfilter effluent, or a combination of microfilter effluent with de-chlorinated and oxygenated RO product water), which is pumped during dry weather conditions for surface discharge upstream of San Simeon Creek Lagoon. An above-ground pipeline is used to deliver the lagoon water from the AWTP to a surface discharge structure. The discharge structure creates a sheet flow of water, prior to entering upstream of the San Simeon Creek Lagoon. The lagoon water filtrate pipeline extension and surface discharge involve extending the 4-inch diameter filtrate pipeline to relocate the discharge point further south to the northern San Simeon Creek bank. The proposed discharge at the creek bank would provide more efficient delivery of water to San Simeon Creek to maintain water levels in the lagoon, while also avoiding existing monitoring well 16D1.

As discussed under Impact 5.3-1 above, indirect operational impacts could occur, particularly if reductions in the water table result in earlier-than-average seasonal drops in creek surface water. However, the SWF returns 100 gpm to the San Simeon Creek Lagoon and 452 gpm are re-injected into the San Simeon Creek aquifer further up-gradient at the well field. Mitigation Measure BIO-3 requires that the filtrate pipeline be extended to relocate the discharge point further south to the San Simeon Creek bank to more efficiently deliver surface water into San Simeon Creek to maintain water levels at San Simeon Creek Lagoon. The GMR included detailed hydrogeological modeling and found that the 100 gpm of mitigation water would maintain water levels in the lagoon, thereby avoiding potential impacts to the lagoon habitat; refer to Impact 5.5-3. Further, the Technical Memorandum concluded that under normal climatic conditions, flows of 50 gpm, which would be one-half of the proposed 100 gpm mitigation flow, would be sufficient to maintain lagoon levels similar to conditions without the SWF. Based on the GMR's and Technical Memorandum's findings, the 100 gpm mitigation flow to the lagoon would maintain water levels in the lagoon. Notwithstanding, Mitigation Measure BIO-7 requires implementation of an AMP for long-term SWF operations. The AMP is intended to monitor and protect the lagoon, creek, and riparian habitats and, by extension, protect the species that inhabit them, including steelhead. The AMP's primary goal is to monitor the response of the lagoon, creeks, and riparian habitats to SWF operations. Monitoring is required as part of the AMP to ensure that creek and lagoon levels are maintained during SWF operations. With implementation of the AMP (Mitigation Measure BIO-7), the water levels would be maintained, lagoon and creek habitats would be protected, and by extension, any steelhead (and any tidewater gobies) that may inhabit them. Monitoring of groundwater and surface water, as well as additional hydrologic modeling, is required to track changes in groundwater, surface waters, and instream and riparian habitats to remove remaining uncertainty and fully understand the SWF's potential impacts. The AMP approach is implemented to provide the needed data and an oversight of uncertain effects of the SWF's pumping, and would alert the CCSD of the need to adjust SWF operations, depending on stream conditions to avoid potential adverse impacts to aquatic species, including steelhead. Adjustments could include alternating the use of production wells between the San Simeon and

Santa Rosa aquifers, curtailments and/or coordination to pumping regimes being practiced by/with other riparian irrigators during such migration periods, invoking conservation/demand management measures, as well as operating the SWF to provide its lagoon water discharge.

Past study of the area by the U.S. Geological Survey has found that the lower reaches of the creek flow subterranean during the dry season due to natural dry-season water level decline (i.e., decline without any pumping occurring). It is anticipated that enough water would remain in the system with the SWF as designed to continue supplying suitable lagoon habitat for steelhead runs. The AMP is proposed to ensure that over time, especially during dry periods, the surface water in San Simeon Creek would not dry up quicker than under existing conditions, thus, avoiding a significant adverse effect to steelhead runs. Adult steelhead typically migrate from the ocean into coastal streams between December and May, according to weather patterns and stream flow. Conversely, smolts (young steelhead that have prepared to migrate to the ocean) typically migrate downstream to lagoons and eventually the ocean between March and June, although low stream flows can block smolts from reaching their destinations. Reduced water in the lower reaches of San Simeon Creek could lead to earlier-than-usual sandbar closures in San Simeon Creek Lagoon, affecting the ability of smolts to migrate to the ocean and prematurely altering the lagoon/estuary temporal interchange. AMP measures, including biological monitoring, hydrologic monitoring, and modeling would be implemented to demonstrate that the SWF is in compliance with CZLUO Section 23.07.170.e.3. Further, the AMP is recommended to avoid/lessen impacts to aquatic vertebrates.

Overall and as concluded above, impacts to steelhead were avoided to the maximum extent feasible. Mitigation Measure BIO-7 requires implementation of an AMP for long-term SWF operations. The AMP is intended to monitor and protect the lagoon, creek, and riparian habitats and, by extension, protect the species that inhabit them (including the steelhead). Implementation of Mitigation Measures BIO-4 (E-CDP Condition 16), BIO-5 (E-CDP Condition 17), BIO-6 (E-CDP Condition 20), BIO-7, and BIO-15 would reduce potential impacts to steelhead to less than significant and ensure compliance with CZLUO Section 23.07.170.e.3.

**CZLUO Section 23.07.170.e.4.iv (Interference with Fish Migration)**

CZLUO Section 23.07.170.e.4.iv prohibits any development activity that would raise overall stream temperatures to unfavorable levels, or that would interfere with normal fish migration and movement within the stream. As stated above, with implementation of the AMP, the SWF is not anticipated to result in decreased water levels in San Simeon Creek and, when applicable, Van Gordon Creek. Implementation of the AMP would ensure that SWF operations would not result in decreased water levels regularly, seasonally, or during particularly dry periods, thus, ensuring that increased water temperatures due to decreased water levels, as well as restrictions on fish migration and movement, would not occur. The GMR included detailed hydrogeological modeling and found that the Project's PDF of providing 100 gpm of lagoon water would maintain water levels in the lagoon, thereby avoiding potential impacts to the lagoon habitat; refer to

Impact 5.5-3. Further, the Technical Memorandum concluded that under normal climatic conditions, flows of 50 gpm, which would be one-half of the proposed 100 gpm mitigation flow, would be sufficient to maintain lagoon levels similar to conditions without the SWF. Based on the GMR's and Technical Memorandum's findings, the Project's PDF of providing 100 gpm of lagoon water would maintain water levels in the lagoon. Notwithstanding, Mitigation Measure BIO-7 requires implementation of an AMP, which involves gathering additional hydrologic information to demonstrate that stream temperatures are maintained at favorable levels and that no interference with normal fish migration or movement within San Simeon Creek or Van Gordon Creek and ensure compliance with CZLUO Section 23.07.170.e.4.

**CZLUO Section 23.07.170.e.5 (Grading Adjacent to Environmentally Sensitive Habitats)**

CZLUO Section 23.07.170.e.5 states that grading adjacent to ESHAs must conform to CZLUO Section 23.05.034.c (Grading Standards), which states that grading shall not occur within 100 feet of any ESHA except where a setback adjustment has been granted as set forth in CZLUO Sections 23.07.172.d.2 (Wetlands) or 23.07.174.d.2 (Streams and Riparian Vegetation). The SWF's product water, filtrate, and RO concentrate disposal pipelines, the Project modifications,' including potable water pipeline 2 and the surface water pipeline, as well as the filtrate pipeline extension and surface discharge, as well as the construction laydown areas, are within the ESHA setback. However, permitted uses within the setback include utility lines/pipelines, such as are proposed by the Project; see CZLUO Section 23.07.172 below.

**CZLUO Section 23.07.172 (Wetlands)**

The provisions of this section are applicable to the SWF, since wetlands are present on the Project site, and would be impacted as detailed above. According to CZLUO Section 23.07.172, development proposed within or adjacent to (within 100 feet of the upland extent of) a wetland area shown on the Environmentally Sensitive Habitat Maps is required to satisfy the requirements of this section. As noted in Section 5.3.2, *Regulatory Setting – North Coast Area Plan*, above, onsite wetlands are not mapped on the Coastal Zone – Wetland Map that is provided, although they are present on the Project site. Notwithstanding, an analysis of SWF consistency with CZLUO Section 23.07.172 is provided herein.

According to this Section, new development is required to be located a minimum of 100 feet from the upland extent of all wetlands. The SWF's product water, filtrate, and RO concentrate disposal pipelines, the Project modifications,' including potable water pipeline 2 and the surface water pipeline, as well as the filtrate pipeline extension and surface discharge, as well as the construction laydown areas, are within the wetland setback. However, permitted uses within wetland setbacks include utility lines/pipelines, such as are proposed by the Project, provided it can be demonstrated that: alternative routes are infeasible/more environmentally damaging; and adverse environmental effects are mitigated to the maximum extent feasible. The SWF's product water, filtrate, RO concentrate disposal pipelines, the Project modifications (potable water

pipeline 2 and the surface water pipeline), and the filtrate pipeline extension and surface discharge, are permitted within the required wetland setback. Alternative pipeline routes would be more environmentally damaging, given the alignments were determined based on the shortest distance between the two points that avoided both the riparian tree line to the maximum extent practicable, and avoided the existing cultural resources, as discussed in detail in Section 5.4, *Cultural Resources*. The vast majority (approximately 90 percent) of the SWF conveyance piping was installed above grade to minimize disturbance. Additionally, horizontal directional drilling construction was used to install pipeline reaches under Van Gordon Creek without disturbing the ground surface, with entrance and exit pits located outside of the tree drip line. The adverse environmental effects to wetlands are mitigated to the maximum extent feasible, as discussed above.

Setbacks established that are less than 100 feet are required to include mitigation to ensure wetland protection; see CZLUO Section 23.07.172.d.3. As discussed above, compliance with Mitigation Measures BIO-4, BIO-5, BIO-6, BIO-7, BIO-8, BIO-18, and BIO-19-19 would reduce Project impacts to wetlands to less than significant, ensuring their protection.

According to CZLUO Section 23.07.172.e.1, activities in wetland areas under County jurisdiction are allowed only to the extent that they are consistent with ESHA Policy 13. As concluded in Table 5.6-3, *LCP Consistency Analysis*, the SWF is consistent with ESHA Policy 13.

Overall, the Project was designed and located in a manner that avoids any significant disruption or degradation of ESHA, including wetlands. As discussed above, impacts to ESHA, including wetlands, would be reduced to less than significant following compliance with CZLUO Section 23.07.172, and implementation of Mitigation Measures BIO-4 through BIO-8, BIO-18, and BIO-19.

*CZLUO Section 23.07.174 (Streams and Riparian Vegetation).*

The Project is subject to compliance with CZLUO Section 23.07.174, which is intended to preserve and protect these resources. According to CZLUO Section 23.07.174.b, alteration of stream channels are limited to necessary water supply projects and construction of improvements to fish and wildlife habitat (as well as flood control projects). The SWF pumps 100 gpm of de-chlorinated/oxygenated product water (filtrate) during dry weather conditions for surface discharge upstream of San Simeon Creek Lagoon. The proposed Project modification surface discharge structure, which involves a discharge point at the San Simeon Creek bank, requires streambed alteration. This surface discharge structure involves both a water supply project and construction of improvements to fish and wildlife habitat and thus, would be a permitted alteration. The CZLUO further notes that alteration of stream channels are limited to necessary water supply projects, "provided that quantity and quality of water from streams shall be maintained at levels necessary to sustain functional capacity of streams, wetlands, estuaries and lakes."[7] As discussed above, Mitigation Measure BIO-7 requires implementation of an AMP,

[7] A "necessary" water project is a project that is essential to protecting and/or maintaining public drinking water supplies (CZLUO Section 23.07.174.b(1)).

which is intended to monitor and protect the creeks and lagoon, as well as the riparian habitats. Thus, in compliance with CZLUO Section 23.07.174.b, BIO-7 would ensure the functional capacity of San Simeon and Van Gordon Creeks, and the San Simeon Creek Lagoon.

According to CZLUO Section 23.07.174.d, new development shall be setback from the upland edge of riparian vegetation the maximum amount feasible, and in the rural areas (outside the URL) this setback shall be a minimum of 100 feet. The SWF's product water, filtrate, and RO concentrate disposal pipelines, the Project modifications' potable water pipeline 2 and the surface water pipeline, and filtrate pipeline extension and surface discharge, as well as the construction laydown areas, are within the riparian setback. CZLUO Section 23.07.174.d.1 specifies that permitted uses within the required setback are as specified in CZLUO Section 23.07.172d.1.i, which include utility lines and pipelines, provided it can be demonstrated that: alternative routes are infeasible or more environmentally damaging; and adverse environmental effects are mitigated to the maximum extent feasible. The SWF's product water, filtrate, RO concentrate disposal pipelines, the Project modifications' potable water pipeline 2 and the surface water pipeline, the filtrate pipeline extension and surface discharge, as well as the construction laydown areas, are limited to pipelines, and thus are permitted within the required setback. Alternative pipeline routes would be more environmentally damaging, given the alignments were determined based on the shortest distance between the two points that avoided both the riparian tree line to the maximum extent practicable, and avoided the existing cultural resources, as discussed in detail in Section 5.4, *Cultural Resources*. The vast majority (approximately 90 percent) of the SWF conveyance piping was installed above grade to minimize disturbance. Additionally, horizontal directional drilling construction was used to install pipeline reaches under Van Gordon Creek without disturbing the ground surface, with entrance and exit pits located outside of the tree drip line. The adverse environmental effects to riparian vegetation are mitigated to the maximum extent feasible, as discussed above. Additionally, CZLUO Section 23.07.174.e specifies that cutting/alteration of riparian vegetation is not permitted except for minor public works projects, including but not limited to pipelines, where the Planning Director determines no feasible alternative exists. Cutting/alteration of riparian vegetation, as would be required for construction of the filtrate pipeline extension and surface discharge would be permitted, since it involves a utility pipeline, or minor public works project. Additionally, alternative pipeline routes would be more environmentally damaging, as discussed above.

Overall, the Project was designed and located in a manner which avoids any significant disruption or degradation of ESHA. Impacts to ESHA would be reduced to less than significant following compliance with CZLUO Sections 23.07.170, 23.07.172, and 23.07.174, and implementation of Mitigation Measures BIO-2 through BIO-19.

**SWF Construction-Related Measures/Standards:** Compliance with construction-related measures/ standards occurred before/during the SWF's construction phase. Mitigation Measures BIO-2 (E-CDP Condition 18); BIO-4 (E-CDP Condition 16); BIO-5 (E-CDP Condition 17); BIO-6 (E-CDP Condition 20); BIO-8 (E-CDP Condition 12); BIO-9 (E-CDP Condition 13); BIO-10 (E-CDP

Condition 14); BIO-11 (E-CDP Condition 15); BIO-12 (E-CDP Condition 19); BIO-13 (E-CDP Condition 21); and BIO-14 (E-CDP Condition 22) were implemented during construction/ground disturbing activities, as discussed above.

**Mitigation Measures:** Refer to Mitigation Measures BIO-2 through BIO-19 above.

**Level of Significance:** Less Than Significant With Mitigation Incorporated.

## 5.3.6 CUMULATIVE IMPACTS

- **WOULD THE PROPOSED PROJECT, COMBINED WITH OTHER CUMULATIVE DEVELOPMENT CAUSING RELATED IMPACTS, RESULT IN SIGNIFICANT CUMULATIVE IMPACTS TO BIOLOGICAL RESOURCES?**

**Impact Analysis**: For purposes of biological resources analyses, cumulative impacts are considered for related projects proposed throughout the North Coast Planning Area, and according to the WMP; see Section 4.0, *Basis of Cumulative Analysis*. Cumulative projects would have the potential to affect biological resources at their respective sites, particularly those involving ground-disturbing activities on previously undeveloped sites.

As summarized above, WMP implementation could impact biological resources. Construction-related impacts regarding habitat loss and sensitive species are considered potentially significant and future improvements would be subject to compliance with State and Federal regulatory policies and requirements, as well as relevant NCAP standards. Since operational activities would be contained within existing disturbed/developed sites and proposed pipelines would be underground, it is not anticipated in this regard that WMP implementation would result in any impacts to sensitive habitats within the Project area. Analysis has determined that construction activities associated with the implementation of the WMP could impact State and Federal jurisdictional areas requiring necessary the regulatory compliance. In addition, San Simeon Creek and Van Gordon Creek are both considered potential migration routes, and their disturbance would be considered a significant impact to wildlife corridors unless mitigated. Analysis has concluded that impacts to wildlife corridors would be reduced following implementation of mitigation measures and compliance with San Luis Obispo County regulatory requirements.

As concluded above, Project implementation would result in less than significant impacts to biological resources, with implementation of the specified mitigation measures.

As discussed in Section 4.0, of the 270 relevant projects, the vast majority (217) involved interior building modifications, minor exterior building alterations/additions, and interior/exterior utility modifications, that were not considered capable of producing related or cumulative impacts. The remaining 51 related County projects could potentially result in adverse effects on biological

resources and/or interference with movement of migratory wildlife species. As with the Project, all cumulative development in the County would undergo environmental and design review on a project-by-project basis pursuant to CEQA to evaluate potential impacts to biological resources. Future development with potential to impact biological resources would also be required to comply with the established Federal, State, and local regulatory framework. One notable cumulative Project (located 3.24 miles from the Project site) involves the Santa Rosa Creek riparian corridor invasive species removal project. Specifically, the Project involves a minor use permit to restore stability to the multi-branched erosional gullies located in the grassland terrace in the center of the west Fiscalini Ranch Preserve. This project would will also remove non-native, invasive plants within the 40 acres in and around the gullies, enhancing the wetland habitat areas scattered throughout the site. Given the distance from the Project site, and since this cumulative project is a restoration project that would result in beneficial impacts to aquatic resources, cumulatively considerable impacts would not occur in this regard. Impacts to biological resources associated with Project implementation would be less than significant following compliance with the established Federal, State, and local regulatory framework, including the CZLUO and LCP, and the specified mitigation measures. Cumulative impacts to biological resources would continue to be mitigated on a project-by-project basis and in accordance with the established regulatory framework, through the established regulatory review process. Therefore, the combined cumulative impacts to biological resources associated with the Project's incremental effects and those of the cumulative projects would be less than significant.

**Standards and Regulations:** Refer to Impact 5.3-5 above.

**Mitigation Measures:** No mitigation is required.

**Level of Significance:** Less Than Significant Impact.

## 5.3.7 SIGNIFICANT UNAVOIDABLE IMPACTS

Following compliance with the established regulatory framework and recommended mitigation measures, Project implementation would result in less than significant impacts to biological resources.

## 5.3.8 SOURCES CITED

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