



CalVTP PSA ID 2023-22

Attachment D

Statement of Overriding Considerations

PROJECT-SPECIFIC CEQA FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS

INTRODUCTION

The Moraga-Orinda Fire District, referred to herein as "Project Proponent" or MOFD, in the exercise of its independent judgment, makes and adopts the following findings regarding its decision to approve the Tunnel East Bay Hills Shaded Fuel Break Project, referred to herein as "vegetation treatment project," within the scope of the California Vegetation Treatment Program (CalVTP) Program Environmental Impact Statement (PEIR). This document has been prepared in accordance with the California Environmental Quality Act (Pub. Resources Code, Sections 21000 et seq.) (CEQA) and the CEQA Guidelines (Cal. Code Regs., Tit. 14, Sections 15000 et seq.).

STATUTORY REQUIREMENTS FOR FINDINGS

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

The mandate and principles announced in Public Resources Code section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. (See Pub. Resources Code, Section 21081, subd. (a); CEQA Guidelines, Section 15091, subd. (a).) For each significant environmental effect identified in an EIR for a project, the approving agency must issue a written finding reaching one or more of three permissible conclusions:

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

(CEQA Guidelines, Section 15091, subd. (a); Pub. Resources Code, Section 21081, subd. (a).) Public Resources Code section 21061.1 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors." (See also *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 565.)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a Statement of Overriding Considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, Sections 15093, 15043, subd. (b); see also Pub. Resources Code, Section 21081, subd. (b).)

The California Board of Forestry and Fire Protection (the Board), adopted Findings and a Statement of Overriding Considerations on December 30, 2019.

As explained in the Board's Findings and the Draft PEIR and the Final PEIR (collectively, the "PEIR"), the CalVTP would result in significant and unavoidable environmental effects to the following: Aesthetics; Air Quality; Archaeological, Historical, and Tribal Cultural Resources; Biological Resources; Greenhouse Gas Emissions; Transportation; and Public Services, Utilities, and Service Systems. For reasons set forth in the Board's Statement of Overriding Considerations, however, the Board determined that overriding economic, social, and other considerations outweigh the significant, unavoidable effects of the CalVTP.

The Project Proponent adopts these findings to document its exercise of its independent judgment regarding the potential environmental effects analyzed in the PEIR and to document its reasoning for approving the vegetation treatment project under the CalVTP despite these effects.

BACKGROUND AND PROJECT DESCRIPTION

The proposed project would create and maintain a reduced-fuel zone around the communities within Contra Costa County south of Grove Shafter Freeway (Highway 24) (Figure 1). The reduced-fuel zone addressed by the project is the southern extension of an existing shaded fuel break; implementation of the project would complete a shaded fuel break boundary around the MOFD coverage area. Six separate environmental Work Areas (1, 2, 3, 4, 5, and 6) totaling approximately 1,320 acres of treatment area within Contra Costa County have been delineated. The Tunnel East Bay Hills Shaded Fuel Break Project (Project) would be implemented on land owned and/or managed by private landowners in and adjacent to the Cities of Orinda and Lafayette, the Town of Moraga, and the unincorporated communities of Canyon, Eastport, and Valle Vista. Non-residential areas include undeveloped rolling hills and open space managed by public and private entities; the Upper San Leandro Reservoir; and areas of scattered vineyards and infrastructure such as transmission lines and power stations. The Project Area is located on the Oakland East, Walnut Creek, and Las Trampas Ridge USGS 7.5" Quadrangles (Township 1S, Range 3W, 2W, Sections 4, 9, 10, 11, 15, 14, 23, 24, 25, 5, 6, 7, 8, 17, 19, 20, 21, 29, 28 30, 32).

Project Description

Proposed treatment types that would be performed within the Project Area consist of shaded fuel breaks and WUI fuel reduction and would occur in all six Work Areas. Strategic vegetation removal would reduce fuels while simultaneously creating a linear break for firefighting resources to contain or stop a fire. Firefighters may utilize the shaded fuel break from the ground or to facilitate air resources in dropping water or retardant.

Treatment Types

Shaded Fuel Break

Development and maintenance of a fuel reduction zone within a 100-foot-wide shaded fuel break would extend around community structures located adjacent to undeveloped open spaces. Portions of the shaded fuel break would extend up to 300 feet wide based on topography, site conditions, and land management constraints. Treatment strategies in shrub areas would involve invasive species removal and dead, woody vegetation removal. Treatment in forested areas would result in a shaded fuel break, retaining tree canopy and thinning understory branches and vegetation. Treatment in grassland would include prescribed burning and prescribed grazing.

Wildland Urban Interface Fuel Reduction

In areas where wildland and structures overlap, higher intensity fuel reduction typical of defensible space would occur within 100 to 150 feet from manmade structures, as determined by fire professionals and based on site conditions. Higher intensity fuel reduction would focus on vertical and horizontal spacing in addition to removal of invasive species, noxious weeds, and dead and dying vegetation. Beyond 100 to 150 feet from manmade structures, vegetation treatments would be implemented with lower intensity. Lower intensity treatments focus primarily on removal of invasive plants and noxious weeds, fire hazardous vegetation, and dead and dying vegetation, as well as limbing up of trees.

Proposed CalVTP Treatment Activities

Prescribed Burning (Pile Burning and Broadcast)

Prescribed low intensity surface fires may be used to control vegetation and manage fuel loads. Prescribed burning would remain within a predetermined area and would occur only with specific fuels, in safe weather conditions, and would consider other variables. Prescribed burning would be restricted to when temperatures are conducive to Alameda whipsnake movement which is typically when soil surface temperatures reach 66°F (19°C).

Manual Treatment

Ground crews would use hand tools and hand-operated power tools, including chainsaws, hand saws, brush cutters, and loppers, to cut, clear, and/or prune trees, herbaceous vegetation, and woody shrubs and increase space between trees. Where feasible, treatments would focus on removing invasive plants and noxious weeds. Treatments may require several days to several months to complete, depending on the treatment size, steepness of terrain, and type and density of vegetation. Cut vegetation would be left on site via lopping and scattering or chipping and broadcasting (a mechanical treatment) across the landscape. Chipped vegetation would not be scattered in Alameda whipsnake habitat. In some areas, removed vegetation would be piled for later pile burning. Manual treatment activities to reduce undesirable wildfire hazards would avoid state or federally jurisdictional waters and riparian habitat by 50 feet.

Ground-based Mechanical Treatment

Mechanical treatments would primarily include skidding, masticating, and chipping and broadcasting target vegetation. Equipment would be operated on existing roads or skid trails in shaded fuel break and WUI treatment areas, and on flat to moderate slopes. Mechanical treatments would not occur within Alameda whipsnake habitat. Mechanical treatment activities would occur predominantly on slopes below 40 percent grade, along ridges, and may occur on slopes greater than 40 percent grade with equipment that can reach target vegetation from existing road infrastructure. No mechanical treatment would occur on slopes above 50 percent grade. Ground-based mechanical treatment activities to reduce undesirable wildfire hazards would avoid state or federally jurisdictional waters and riparian habitat by 50 feet minimum. Typically, treatments would require several days to several months to complete.

Mechanical treatments would cut, uproot, crush/compact, or chop standing and downed vegetation using masticators and other methods. Small-diameter trees (6 inches diameter at breast height or less), downed woody debris, and woody shrubs would be strategically masticated to increase tree spacing and reduce fire fuel loads. Native understory vegetation, brush, and shrubs under the drip lines of trees would be cut and masticated leaving root systems intact for resprouting. Mechanical treatments would not occur within Alameda whipsnake habitat.

Prescribed Herbivory

Prescribed herbivory would be used to reduce fuel loads, as pretreatment before other methods, and as treatment maintenance. Grazing would require temporary wildlife-safe fencing where natural barriers are not present, temporary water facilities and other infrastructure (e.g., corrals, fences), and guard animals and/or a shepherd to be present on-site. Prescribed herbivory involves transporting a herd of grazing animals such as cattle, sheep, or goats to designated prescribed herbivory sites. Stocking rate would vary based on species of grazer (e.g., a herd of cattle would require a larger acreage than a herd of goats of the same size). Livestock would be clean of weed seeds (e.g., hooves, fur, digestive tract, etc.) prior to being introduced to the site. Moving livestock from one grazing ground to

another would occur at a frequency based on numerous site-specific factors, including slope, density and type of vegetation, stocking rate, type of livestock, and precipitation/moisture content of vegetation. The relative density or quantity of the vegetation to be removed or modified would aid in determining the number of animals and the length of time necessary to complete the job. Herbivores have the potential to damage other resources if their movement is not controlled. Herds would be moved as often as every 1 to 3 days, and one to two workers would be required on average to implement this treatment activity. Any identified sensitive areas would be clearly marked on Project maps, and protection measures would be communicated to the herder and project manager, including a pre-vegetation removal field visit as appropriate.

Biomass Disposal

Project debris would typically be processed through natural decomposition (e.g., lopping and scattering, chipping and broadcasting), hauling cut materials to an off-site biomass facility, or pile burning cut materials. Understory debris chipped and scattered on-site would follow BMPs for reducing the spread of pests, disease, noxious weeds, and invasive species. The chipped biomass would be broadcast on-site, with chipped materials cut to under 3 inches in size and spread up to 4 inches in depth to minimize wildfire risk. Chipped vegetation would not be scattered in Alameda whipsnake habitat. The remaining biomass that could not be broadcast on-site would be hauled off-site or pile-burned.

Treatment Maintenance

All Work Areas would be monitored for maintenance of desired vegetation conditions (“treatment maintenance,” CalVTP PEIR Section 2.5.2). Qualified personnel would monitor vegetative conditions to determine need for treatment maintenance. In forested areas, treatment maintenance may occur every 3 to 5 years. In brush-dominated areas, treatment maintenance such as herbivory may occur every 1 to 5 years. In grassland areas or areas where initial treatments were primarily manual, treatment maintenance may occur annually. Treatment maintenance would typically be implemented between approximately August and January whenever feasible, during Alameda whipsnake hibernation and outside of nesting bird season.

Maintenance treatments are anticipated to follow the same methods as initial treatments but are subject to change depending on site response to initial treatment. At locations where intensive vegetation removal (e.g., prescribed burning) occurred, treatment maintenance may utilize more low-intensity manual treatment activities in subsequent years. Because vegetation communities are dynamic, treatment activities would be modified to reflect changes.

Throughout the treatment maintenance period, MOFD would consider the continued relevance of the PSA. Where MOFD determines the PSA is no longer sufficiently relevant, the project proponent would determine whether a new PSA or other environmental analysis is warranted. If more than 10 years pass since approval of the latest PSA update, MOFD would update the PSA. For example, MOFD would conduct a reconnaissance survey to verify conditions are substantially similar to those anticipated in the PSA. Any updates would be documented.

ENVIRONMENTAL REVIEW PROCESS

The Project Proponent followed the evaluation and reporting process outlined in the PSA and required under the CalVTP.

On June 7, 2023, Project Proponent submitted to CAL FIRE the required information regarding this project when it began preparing the PSA. The submittal included:

- GIS data that included project location (as a point);
- project size;
- planned treatment types and activities; and

- contact information for a representative of the project proponent.

Upon adoption of these findings and approval of the project, Project Proponent will submit this completed PSA and Addendum with associated geospatial data to CAL FIRE at the time a Notice of Determination is filed. The submittal will include the following:

- ▶ The completed PSA Environmental Checklist;
- ▶ The completed Mitigation Monitoring and Reporting Program (using Attachment A to the Environmental Checklist);
- ▶ GIS data that include:
 - a polygon(s) of the project area, showing the extent of each treatment type included in the project (ecological restoration, fuel break, WUI fuel reduction)

As required under the CalVTP, Project Proponent will submit the following information to CAL FIRE after implementation of the treatment:

- ▶ GIS data that include a polygon(s) of the treated area, showing the extent of each treatment type implemented (ecological restoration, fuel break, WUI fuel reduction)
- ▶ A post-project implementation report (referred to by CAL FIRE as a Completion Report) that includes
 - Size of treated area (typically acres);
 - Treatment types and activities;
 - Dates of work;
 - A list of the SPRs and mitigation measures that were implemented; and
 - Any explanations regarding implementation if required by SPRs and mitigation measures (e.g., explanation for feasibility determination required by SPR BIO-12; explanation for reduction of a no-disturbance buffer below the general minimum size described in Mitigation Measures BIO-1a and BIO-2b.

RECORD OF PROCEEDINGS

In accordance with Public Resources Code Section 21167, subdivision (e), the record of proceedings for the Project Proponent's decision to approve the vegetation treatment project under the CalVTP includes the following documents at a minimum:

- ▶ The certified Final PEIR for the CalVTP, including the Draft PEIR, responses to comments on the Draft PEIR, and appendices;
- ▶ All recommendations and findings adopted by the Board in connection with the CalVTP and all documents cited or referred to therein;
- ▶ All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the treatment project prepared by the Project Proponent, consultants to the Project Proponent, or responsible or trustee agencies with respect to the Project Proponent's compliance with the requirements of CEQA and with respect to the Project Proponent's action on the CalVTP;
- ▶ Matters of common knowledge to the Project Proponent, including but not limited to federal, state, and local laws and regulations;
- ▶ Any documents expressly cited in these findings, in addition to those cited above; and
- ▶ Any other materials required for the record of proceedings by Public Resources Code section 21167.6, subdivision (e).

Pursuant to CEQA Guidelines section 15091, subdivision (e), the documents constituting the record of proceedings are available for review during normal business hours at 1280 Moraga Way, Moraga, CA 94556. The custodian of these documents is Jeff Isaacs, Fire Marshal.

MITIGATION MONITORING AND REPORTING PROGRAM

A Mitigation Monitoring and Reporting Program (MMRP) was adopted by the Board for the CalVTP, and the applicable mitigation measures for this treatment project have been identified in the PSA. The Project Proponent will use the MMRP to track compliance with the CalVTP mitigation measures. The MMRP will remain available for public review during the compliance period. The Final MMRP is attached to and is approved in conjunction with the approval of the treatment project and adoption of these Findings.

FINDINGS FOR DETERMINATIONS OF LESS THAN SIGNIFICANT

The Project Proponent has reviewed and considered the information in the Final PEIR for the CalVTP addressing potential environmental effects, proposed mitigation measures, and alternatives. The Project Proponent, relying on the facts and analysis in the Final PEIR and the treatment project PSA, which were presented to the MOFD Board of Directors and reviewed and considered prior to any approvals, concurs with the conclusions of the Final PEIR and the treatment project PSA regarding the potential environmental effects of the CalVTP and the treatment project.

The Project Proponent concurs with the conclusions in the Final PEIR and treatment project PSA that all of the following impacts will be less than significant. Resource topics for which there are no anticipated or considered impacts are not described below.

AESTHETICS AND VISUAL RESOURCES

- ▶ Impact AES-1: Result in Short-Term, Substantial Degradation of a Scenic Vista or Visual Character or Quality of Public Views, or Damage to Scenic Resources in a State Scenic Highway from Treatment Activities
- ▶ Impact AES-2: Result in Long-Term, Substantial Degradation of a Scenic Vista or Visual Character or Quality of Public Views, or Damage to Scenic Resources in a State Scenic Highway from WUI Fuel Reduction, Ecological Restoration, or Shaded Fuel Break Treatment Types

AGRICULTURAL AND FORESTRY RESOURCES

- ▶ Impact AG-1: Directly Result in the Loss of Forest Land or Conversion of Forest Land to a Non-Forest Use or Involve Other Changes in the Existing Environment Which, Due to Their Location or Nature, Could Result in Conversion of Forest Land to Non-Forest Use

AIR QUALITY

- ▶ Impact AQ-2: Expose People to Diesel Particulate Matter Emissions and Related Health Risk
- ▶ Impact AQ-5: Expose People to Objectionable Odors from Diesel Exhaust

ARCHAEOLOGICAL, HISTORICAL, AND TRIBAL CULTURAL RESOURCES

- ▶ Impact CUL-1: Cause a Substantial Adverse Change in the Significance of Built Historical Resources

- ▶ Impact CUL-3: Cause a Substantial Adverse Change in the Significance of a Tribal Cultural Resource
- ▶ Impact CUL-4: Disturb Human Remains

BIOLOGICAL RESOURCES

- ▶ Impact BIO-6: Substantially Reduce Habitat or Abundance of Common Wildlife

GEOLOGY, SOILS, AND MINERAL RESOURCES

- ▶ Impact GEO-1: Result in Substantial Erosion or Loss of Topsoil
- ▶ Impact GEO-2: Increase Risk of Landslide

GREENHOUSE GAS EMISSIONS

- ▶ Impact GHG-1: Conflict with Applicable Plan, Policy, or Regulation of an Agency Adopted for the Purpose of Reducing the Emissions of GHGs

ENERGY RESOURCES

- ▶ Impact ENG-1: Result in Wasteful, Inefficient, or Unnecessary Consumption of Energy

HAZARDOUS MATERIALS, PUBLIC HEALTH AND SAFETY

- ▶ Impact HAZ-1: Create a Significant Health Hazard from the Use of Hazardous Materials
- ▶ Impact HAZ-2: Create a Significant Health Hazard from the Use of Herbicides
- ▶ Impact HAZ-3: Expose the Public or Environment to Significant Hazards from Disturbance to Known Hazardous Material Sites

HYDROLOGY AND WATER QUALITY

- ▶ Impact HYD-1: Violate Water Quality Standards or Waste Discharge Requirements, Substantially Degrade Surface or Ground Water Quality, or Conflict with or Obstruct the Implementation of a Water Quality Control Plan Through the Implementation of Prescribed Burning
- ▶ Impact HYD-2: Violate Water Quality Standards or Waste Discharge Requirements, Substantially Degrade Surface or Ground Water Quality, or Conflict with or Obstruct the Implementation of a Water Quality Control Plan Through the Implementation of Manual or Mechanical Treatment Activities
- ▶ Impact HYD-3: Violate Water Quality Standards or Waste Discharge Requirements, Substantially Degrade Surface or Ground Water Quality, or Conflict with or Obstruct the Implementation of a Water Quality Control Plan Through Prescribed Herbivory
- ▶ Impact HYD-4: Violate Water Quality Standards or Waste Discharge Requirements, Substantially Degrade Surface or Ground Water Quality, or Conflict with or Obstruct the Implementation of a Water Quality Control Plan Through the Ground Application of Herbicides
- ▶ Impact HYD-5: Substantially Alter the Existing Drainage Pattern of a Treatment Site or Area

LAND USE AND PLANNING, POPULATION AND HOUSING

- ▶ Impact LU-1: Cause a Significant Environmental Impact Due to a Conflict with a Land Use Plan, Policy, or Regulation
- ▶ Impact LU-2: Induce Substantial Unplanned Population Growth

NOISE

- ▶ Impact NOI-1: Result in a Substantial Short-Term Increase in Exterior Ambient Noise Levels During Treatment Implementation
- ▶ Impact NOI-2: Result in a Substantial Short-Term Increase in Truck-Generated SENL's During Treatment Activities

RECREATION

- ▶ Impact REC-1: Directly or Indirectly Disrupt Recreational Activities within Designated Recreation Areas

TRANSPORTATION

- ▶ Impact TRAN-1: Result in Temporary Traffic Operations Impacts by Conflicting with a Program, Plan, Ordinance, or Policy Addressing Roadway Facilities or Prolonged Road Closures
- ▶ Impact TRAN-2: Substantially Increase Hazards due to a Design Feature or Incompatible Uses
- ▶ Impact TRAN-3: Result in a Net Increase in VMT for the Proposed CalVTP

PUBLIC SERVICES, UTILITIES, AND SERVICE SYSTEMS

- ▶ Impact UTIL-1: Result in Physical Impacts Associated with Provision of Sufficient Water Supplies, Including Related Infrastructure Needs
- ▶ Impact UTIL-2: Generate Solid Waste in Excess of State Standards or Exceed Local Infrastructure Capacity
- ▶ Impact UTIL-3: Comply with Federal, State, and Local Management and Reduction Goals, Statutes, and Regulations Related to Solid Waste

WILDFIRE

- ▶ Impact WIL-1: Substantially Exacerbate Fire Risk and Expose People to Uncontrolled Spread of a Wildfire
- ▶ Impact WIL-2: Expose People or Structures to Substantial Risks Related to Post-Fire Flooding or Landslides

SIGNIFICANT EFFECTS AND MITIGATION MEASURES

The PEIR identified a number of significant and potentially significant environmental effects (or impacts) that the CalVTP will contribute to or cause. The Board determined that some of these significant effects can be fully avoided through the application of feasible mitigation measures. Other effects, however, cannot be avoided by the adoption of feasible mitigation measures or alternatives and thus will be significant and unavoidable. For reasons set forth in Section 10.2 of the Board's Findings and Statement of Overriding Considerations, however, the Board determined that overriding economic, social, and other considerations outweigh the significant, unavoidable effects of the CalVTP.

The Board adopted the findings required by CEQA for all direct and indirect significant impacts. The findings provided a summary description of each impact, described the applicable mitigation measures identified in the PEIR

and adopted by the Board, and stated the Board's findings on the significance of each impact after imposition of the adopted mitigation measures. A full explanation of these environmental findings and conclusions can be found in the Final PEIR; and the Board incorporated by reference into its findings the discussion in those documents supporting the Final PEIR's determinations. In making those findings, the Board ratified, adopted, and incorporated into the findings the analyses and explanations in the Draft PEIR and Final PEIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions were specifically and expressly modified by the findings.

Not every individual treatment project will have all of the significant environmental impacts that the CalVTP was determined to contribute to or cause. Additionally, some of the environmental impacts predicted by the CalVTP PEIR to be significant and unavoidable or less than significant after mitigation may be determined in a PSA to be less severe for an individual treatment project than determined in the statewide PEIR. The impacts and mitigation measures identified in Sections 8.1 and 8.2 below reflect the conclusions of the PSA by indicating which of the CalVTP's impacts that this treatment project will contribute to or cause. By indicating the project-specific effects of this treatment project as follows, the Project Proponent's decisionmaker or decision-making body is hereby making the required findings under CEQA regarding the application or feasibility of mitigation measures to reduce those impacts.

FINDINGS FOR IMPACTS MITIGATED TO LESS THAN SIGNIFICANT

The Project Proponent finds that changes or alterations have been required in, or incorporated into, the treatment project which avoid or substantially lessen the significant environmental effects indicated below, as identified in the Final PEIR and the PSA. Implementation of the mitigation measures indicated below to be applicable to the treatment project, which have been required or incorporated into the project, will reduce these impacts to a less than significant level. The Project Proponent hereby directs that these mitigation measures be adopted.

ARCHAEOLOGICAL, HISTORICAL, AND TRIBAL CULTURAL RESOURCES

Impact CUL-2: Cause a Substantial Adverse Change in the Significance of Unique Archaeological Resources or Subsurface Historical Resources

- Mitigation Measure CUL-2: Protect Inadvertent Discoveries of Unique Archaeological Resources or Subsurface Historical Resources

BIOLOGICAL RESOURCES

Impact BIO-1: Substantially Affect Special-Status Plant Species Either Directly or Through Habitat Modifications

- Mitigation Measure BIO-1a: Avoid Loss of Special-Status Plants Listed under ESA or CESA
- Mitigation Measure BIO-1b: Avoid Loss of Special-Status Plants Not Listed Under ESA or CESA
- Mitigation Measure BIO-3a: Design Treatments to Avoid Loss of Sensitive Natural Communities and Oak Woodlands
- Mitigation Measure BIO-4: Avoid State and Federally Protected Wetlands

Impact BIO-2: Substantially Affect Special-Status Wildlife Species Either Directly or Through Habitat Modifications (Tree-Nesting and Cavity-Nesting Wildlife)

- Mitigation Measure BIO-2a: Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Listed Wildlife Species and California Fully Protected Species (All Treatment Activities)
- Mitigation Measure BIO-2b: Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Other Special-Status Wildlife Species (All Treatment Activities)

- Mitigation Measure BIO-3a: Design Treatments to Avoid Loss of Sensitive Natural Communities and Oak Woodlands
- Mitigation Measure BIO-4: Avoid State and Federally Protected Wetlands
- Impact BIO-2: Substantially Affect Special-Status Wildlife Species Either Directly or Through Habitat Modifications (Shrub-Nesting Wildlife)**
 - Mitigation Measure BIO-2a: Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Listed Wildlife Species and California Fully Protected Species (All Treatment Activities)
 - Mitigation Measure BIO-2b: Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Other Special-Status Wildlife Species (All Treatment Activities)
 - Mitigation Measure BIO-3a: Design Treatments to Avoid Loss of Sensitive Natural Communities and Oak Woodlands
 - Mitigation Measure BIO-4: Avoid State and Federally Protected Wetlands
- Impact BIO-2: Substantially Affect Special-Status Wildlife Species Either Directly or Through Habitat Modifications (Ground-Nesting Wildlife)**
 - Mitigation Measure BIO-2a: Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Listed Wildlife Species and California Fully Protected Species (All Treatment Activities)
 - Mitigation Measure BIO-2b: Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Other Special-Status Wildlife Species (All Treatment Activities)
 - Mitigation Measure BIO-3a: Design Treatments to Avoid Loss of Sensitive Natural Communities and Oak Woodlands
- Impact BIO-2: Substantially Affect Special-Status Wildlife Species Either Directly or Through Habitat Modifications (Burrowing and Denning Wildlife)**
 - Mitigation Measure BIO-2a: Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Listed Wildlife Species and California Fully Protected Species (All Treatment Activities)
 - Mitigation Measure BIO-2b: Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Other Special-Status Wildlife Species (All Treatment Activities)
 - Mitigation Measure BIO-3a: Design Treatments to Avoid Loss of Sensitive Natural Communities and Oak Woodlands
 - Mitigation Measure BIO-4: Avoid State and Federally Protected Wetlands
- Impact BIO-2: Substantially Affect Special-Status Wildlife Species Either Directly or Through Habitat Modifications (Insects and Other Terrestrial Invertebrates): Monarch butterfly**
 - Mitigation Measure BIO-2a: Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Listed Wildlife Species and California Fully Protected Species (All Treatment Activities)
 - Mitigation Measure BIO-2b: Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Other Special-Status Wildlife Species (All Treatment Activities)
 - Mitigation Measure BIO-2e: Design Treatment to Retain Special-Status Butterfly Host Plants (All Treatment Activities)
 - Mitigation Measure BIO-3a: Design Treatments to Avoid Loss of Sensitive Natural Communities and Oak Woodlands

- Impact BIO-2: Substantially Affect Special-Status Wildlife Species Either Directly or Through Habitat Modifications (Bats)**
 - Mitigation Measure BIO-2a: Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Listed Wildlife Species and California Fully Protected Species (All Treatment Activities)
 - Mitigation Measure BIO-2b: Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Other Special-Status Wildlife Species (All Treatment Activities)
 - Mitigation Measure BIO-3a: Design Treatments to Avoid Loss of Sensitive Natural Communities and Oak Woodlands
 - Mitigation Measure BIO-4: Avoid State and Federally Protected Wetlands

- Impact BIO-2: Substantially Affect Special-Status Wildlife Species Either Directly or Through Habitat Modifications (Amphibians and Reptiles (in wetlands, vernal pools, associated riparian))**
 - Mitigation Measure BIO-2a: Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Listed Wildlife Species and California Fully Protected Species (All Treatment Activities)
 - Mitigation Measure BIO-2b: Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Other Special-Status Wildlife Species (All Treatment Activities)
 - Mitigation Measure BIO-4: Avoid State and Federally Protected Wetlands

- Impact BIO-3: Substantially Affect Riparian Habitat or Other Sensitive Natural Community Through Direct Loss or Degradation that Leads to Loss of Habitat Function**
 - Mitigation Measure BIO-3a: Design Treatments to Avoid Loss of Sensitive Natural Communities and Oak Woodlands

- Impact BIO-4: Substantially Affect State or Federally Protected Wetlands**
 - Mitigation Measure BIO-4: Avoid State and Federally Protected Wetlands

- Impact BIO-5: Interfere Substantially with Wildlife Movement Corridors or Impede Use of Nurseries**
 - Mitigation Measure BIO-5: Retain Nursery Habitat and Implement Buffers to Avoid Nursery Sites

FINDINGS FOR SIGNIFICANT AND UNAVOIDABLE IMPACTS

The CalVTP PEIR determined that some impacts of the program would be significant and unavoidable, even after implementation of all feasible mitigation. The Project Proponent finds that the treatment project would contribute to or cause the following significant and unavoidable impacts as indicated. Incorporating and implementing the following mitigation measures indicated to be applicable to the treatment project will reduce the severity of this impact, but not to a less-than-significant level. The Project Proponent hereby directs that these mitigation measures be adopted. The Project Proponent therefore finds that changes or alterations have been required in, or incorporated into, the treatment project that will substantially lessen, but not avoid, the significant environmental effect as identified in the PEIR and PSA.

The Project Proponent finds that fully mitigating these impacts are not feasible; there are no feasible mitigation measures beyond the mitigation measures indicated below to reduce these impacts. These impacts will remain significant and unavoidable. The Project Proponent concludes, however, that the benefits of the CalVTP and the vegetation treatment project outweigh the significant unavoidable impacts of the Program and treatment project, as set forth in the Board's Statement of Overriding Considerations.

AIR QUALITY

Impact AQ-1: Generate Emissions of Criteria Air Pollutants and Precursors During Treatment Activities that Would Exceed CAAQS Or NAAQS and Conflict with Regional Air Quality Plans

Mitigation Measure AQ-1: Implement On-Road Vehicle and Off-Road Equipment Exhaust Emission Reduction Techniques

No feasible mitigation is available.

ADDITIONAL INFORMATION TO SUPPORT CalVTP FINDING FOR THE TUNNEL EAST BAY HILLS SHADED FUEL BREAK PROJECT:

Implementation of Mitigation Measure AQ-1 was required or incorporated into the CalVTP by the Board of Forestry to reduce the severity of this impact, but it was not feasible to attain a less-than-significant level. Emission reduction techniques included within Mitigation Measure AQ-1 would be infeasible for the Project Proponent to implement and, for the same reasons explained in the PEIR, this impact would remain significant and unavoidable. It is cost prohibitive to use equipment meeting the latest efficiency standards, including meeting the U.S. Environmental Protection Agency's (EPA's) Tier 4 emission standards, using renewable diesel fuel, using electric- and gasoline-powered equipment, and using equipment with Best Available Control Technology. In addition, crew sizes would be small and may not all be employed with the same company. Therefore, carpooling may not be feasible to implement for most of the workers. The Project Proponent incorporated all feasible and applicable measures to prevent and minimize this potential impact, pursuant to SPRs AQ-1, AQ-4, and AQ-6. The Project Proponent finds that mitigating this impact below a level of significance is not feasible. The Project Proponent concludes, however, that the benefits of the CalVTP and proposed project outweigh the significant unavoidable impacts of the Program and proposed vegetation treatment project, as set forth in the Statement of Overriding Considerations, below. The Project Proponent therefore finds that changes or alterations have been required in, or incorporated into, the proposed project that will substantially lessen, but not avoid, the significant environmental effect as identified in the PEIR.

Impact AQ-4: Expose People to Toxic Air Contaminants Emitted by Prescribed Burns and Related Health Risk

No feasible mitigation is available.

ADDITIONAL INFORMATION TO SUPPORT CalVTP FINDING FOR THE TUNNEL EAST BAY HILLS SHADED FUEL BREAK PROJECT:

All feasible precautions and notifications have been incorporated into the CalVTP to reduce the severity of this impact, but not to a less-than-significant level. No additional feasible measures are available for the Project Proponent to implement and, for the same reasons explained in the PEIR, this impact would remain potentially significant and unavoidable. SPRs applicable to these treatment activities are AD-4, AQ-1, AQ-2, AQ-3, and AQ-6. All feasible measures to prevent and minimize smoke emissions, as well as exposure to smoke, are included in SPRs, however this impact would remain significant and unavoidable, as explained in the PEIR. The Project Proponent concludes, however, that the benefits of the CalVTP outweigh the significant unavoidable impacts of the Program, as set forth in the Statement of Overriding Considerations, below. The Project Proponent therefore finds that changes or alterations have been required in, or incorporated into, the proposed project that will substantially lessen, but not avoid, the significant environmental effect as identified in the PEIR.

Impact AQ-6: Expose People to Objectionable Odors from Smoke During Prescribed Burning

- No feasible mitigation is available.

All feasible precautions and notifications have been incorporated into the CalVTP to reduce the severity of this impact, but not to a less-than-significant level. No additional feasible measures are available for the Project Proponent to implement and, for the same reasons explained in the PEIR, this impact would remain potentially significant and unavoidable. SPRs that are applicable to this treatment project are AD-4, AQ-1, AQ-2, AQ-3, and AQ-6. All feasible measures to prevent and minimize smoke odors, as well as exposure to smoke odors, are included in SPRs, however, this impact would remain significant and unavoidable, as explained in the PEIR. The Project Proponent concludes, however, that the benefits of the CalVTP outweigh the significant unavoidable impacts of the Program, as set forth in the Statement of Overriding Considerations, below. The Project Proponent therefore finds that changes or alterations have been required in, or incorporated into, the proposed project that will substantially lessen, but not avoid, the significant environmental effect as identified in the PEIR. 24B259B.

BIOLOGICAL RESOURCES

Impact BIO-2: Substantially Affect Special-Status Wildlife Species Either Directly or Through Habitat Modifications (Insects and Other Terrestrial Invertebrates): Western bumble bee

- Mitigation Measure BIO-2a: Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Listed Wildlife Species and California Fully Protected Species (All Treatment Activities)
- Mitigation Measure BIO-2b: Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Other Special-Status Wildlife Species (All Treatment Activities)
- Mitigation Measure BIO-2g: Design Treatment to Avoid Mortality, Injury, or Disturbance and Maintain Habitat Function for Special-Status Bumble Bees (All Treatment Activities)
- Mitigation Measure BIO-3a: Design Treatments to Avoid Loss of Sensitive Natural Communities and Oak Woodlands
- Mitigation Measure BIO-4: Avoid State and Federally Protected Wetlands

ADDITIONAL INFORMATION TO SUPPORT CalVTP FINDING FOR THE TUNNEL EAST BAY HILLS SHADED FUEL BREAK PROJECT:

Although Mitigation Measures BIO-2a, BIO-2b, BIO-2g, BIO-3a, and BIO-4 would reduce impacts on foraging special-status bumble bees and their floral resources, substantial adverse effects could still occur to special-status bumble bee species during nesting and overwintering, because vegetation treatment activities could kill individuals or crush or disturb overwintering or nesting colonies. If western bumble bee, nursery sites, or flowering nectar plants are observed during focused surveys (following CDFW, 2023), or the species is

assumed to be present in lieu of conducting surveys, the project proponent would avoid or minimize adverse effects on the species by implementing the following:

- If feasible, treatment activities would occur during periods when western bumble bee colonies are least active (e.g. October – January). If avoiding peak colony active time and queen and gyne flight periods is deemed infeasible for project implementation. The project proponent would require flagging areas for avoidance in which no treatment activities would occur, biological monitoring would be required, and/or other measures recommended by CDFW as necessary to avoid injury to or mortality of these species or impacts to the population.
- Surveys for western bumble bee colonies would be conducted during queen flight season (February – March), colony active period (April – September), and gyne flight season (October – November) within one week prior to treatment activities. Surveys conducted during these active periods are considered the most effective way to protect the species; however, surveys may fail to detect the presence of a western bumblebee. A project proponent may choose to assume presence and rely on habitat as an indicator of presence in lieu of or in addition to surveys.
- Bumble bees move nests each year, and therefore surveys should be repeated each year. Even if surveys from a particular project site failed to detect bumble bees within one year, additional surveys would be performed each year or presence would be assumed, and a qualified biologist would conduct pretreatment surveys and monitor treatment activities.
- If any of the candidate bumble bee species are detected during surveys, the biologist would notify CDFW as further coordination may be required to avoid or mitigate certain impacts. As very little is known about nesting or overwintering sites of the candidate species, if nest or overwintering sites are discovered or can be documented, contact (preferably within three days) CDFW (wildlifemgt@wildlife.ca.gov), USFWS (for *B. franklini*, *B. occidentalis*, and/or *B. suckleyi*), as well as regional CDFW staff (Robynn.Swan@wildlife.ca.gov) in which the sighting occurred to contribute to the knowledge pool for bumble bee habitat and behavior.
- If CESA-protected bumble bees are observed, project proponents may consult with CDFW to obtain an Incidental Take Permit (ITP) if take of CESA-protected bumble bees may occur during project activities.

Because little is known about the life history and behaviors of western bumble bee, they can be difficult to detect, and there is no established methodology for detecting overwintering or nesting colonies of these species, western bumble bee may be difficult to completely avoid during proposed Project treatment activities. If colonies were destroyed, it is possible that populations of these species would be reduced below self-sustaining levels, and treatment activities could substantially reduce the number or restrict the range of species. Primary threats to the survival of special-status bumble bees include habitat loss or modification due to development, agriculture, high-intensity fire, fire suppression, and herbicide use (Xerces Society et al. 2018). The objective of the CalVTP is to reduce the occurrence of high-intensity wildfire and modify past practices of fire suppression, which could beneficially decrease an existing threat to western bumble bee; however, in the process of achieving this objective, there are potential impacts to western bumble bee. The CalVTP PEIR recognizes the difficulty in detecting overwintering and nesting bumble bees, determining the occurrence and severity of impacts, and that impacts to western bumble bee are designated in the PEIR to be potentially significant and unavoidable. The Project Proponent has concluded accordingly that proposed Project impacts are consistent with those described in the CalVTP PEIR, and that impacts to western bumble bee by the proposed treatment activities are potentially significant and unavoidable.

GREENHOUSE GAS EMISSIONS

Impact GHG-2: Generate GHG Emissions through Treatment Activities

- Mitigation Measure GHG-2: Implement GHG Emission Reduction Techniques During Prescribed Burns

The Project Proponent finds that GHG emissions from the use of vehicles and mechanical equipment, prescribed herbivory, herbicide application, and prescribed burning during initial and maintenance treatments cannot be avoided, because they are necessary for effective treatments. Implementation of mitigation measure GHG-2 would reduce GHG emissions associated with pile burning by burning when fuels have a higher fuel moisture content, reducing the total area burned by mosaic burning and isolating and leaving large fuels unburned, and by scheduling burns before new fuels appear. Treatment activities would contribute to annual GHG emissions generated under the CalVTP. Methods for reducing GHG emissions from burns would be integrated into SPR AQ-3 (Burn Plan) as described in mitigation measure GHG-2. The Project Proponent incorporated all feasible and applicable measures to prevent and minimize this potential impact, pursuant to mitigation measure GHG-2. The Project Proponent finds that mitigating this impact below a level of significance is not feasible. The Project Proponent concludes, however, that the benefits of the CalVTP and the proposed project outweigh the significant unavoidable impacts of the Program and the proposed vegetation treatment project, as set forth in the Statement of Overriding Considerations, below.

STATEMENT OF OVERRIDING CONSIDERATIONS

As set forth in the Board's adopted Findings, the Board determined that the CalVTP will result in significant adverse environmental effects that cannot be avoided even with the adoption of all feasible mitigation measures, and there are no feasible project alternatives that would mitigate or substantially lessen the impacts. Despite these effects, however, the Board, in accordance with CEQA Guidelines Section 15093, chose to approve the CalVTP because, in its view, the benefits to life, property, and other resources, and the other benefits of the CalVTP, will render the significant effects acceptable.

In the Board's judgment, the CalVTP and its benefits outweigh its unavoidable significant effects. The Board's Findings were based on substantial evidence in the record. The Board's Statement of Overriding Considerations identified the specific reasons why, in the Board's judgment, the benefits of the CalVTP as approved outweigh its unavoidable significant effects.

Exercising its independent judgment and review, the Project Proponent concurs that the benefits of the CalVTP and the treatment project outweigh the significant environmental effects and hereby incorporates by reference and adopts the Board's Statement of Overriding Considerations for the CalVTP.

Any one of the reasons listed in the Statement of Overriding Considerations is sufficient to justify approval of the treatment project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the Project Proponent would stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this section, and the documents found in the Record of Proceedings, which are described and defined in Section 5, above.

- ▶ The CalVTP will reduce dire risks to life, property, and natural resources in California.
- ▶ The CalVTP reflects the most current and commonly accepted science and conditions in California and allows for adaptation in response to potential evolution and changes in science and conditions.
- ▶ The CalVTP reflects the Board's and CAL FIRE's goals. The CalVTP will help the Board and CAL FIRE achieve their central goals for reducing and preventing the impacts of fire in the state, as outlined in the *2018 Strategic Fire Plan for California*. The CalVTP will help to establish a natural environment that is more resilient and built assets that are more resistant to the occurrence and effects of wildland fire.
- ▶ The CalVTP will help implement Executive Orders, including:
 - EO B-42-17: Governor Brown's order issued to bolster the state's response to unprecedented tree die-off through further expediting removal of millions of dead and dying trees across the state;

- EO B-52-18: Governor Brown’s order to improve forest management and restoration, provide regulatory relief, and reduce barriers for prescribed fire; and
 - EO N-05-19: Governor Newsom’s order directing CAL FIRE to recommend immediate-, medium-, and long-term actions to help prevent destructive wildfires.
- ▶ The Board is required by law to comply with SB 1260, signed into law by Governor Brown in February 2018, which improves California forest management practices to reduce the risk of wildfire in light of the changing climate and includes provisions for the CalVTP PEIR to serve as the programmatic CEQA coverage for prescribed burns within the SRA. The CalVTP will bring the Board into compliance with these requirements.
- ▶ The CalVTP will help to meet California’s GHG emission goals consistent with the California Forest Carbon Plan, California’s 2017 Climate Change Scoping Plan, Fire on the Mountain: Rethinking Forest Management in the Sierra Nevada, and California 2030 Natural and Working Lands Climate Change Implementation Plan.
1. The CalVTP and the proposed vegetation treatment project reflect MOFD’s goals to reduce wildfire fuels, reduce risks to homes, and increase access for firefighters, through implementing the state’s Program.