# Final
# Subsequent Environmental Impact Report

# Santa Clara Valley Water District
# Stream Maintenance Program Renewal
# 2027-2036

## Volume I of II

## State Clearinghouse No. 2000102055

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March 2026

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# Contents

# Chapter 1
# INTRODUCTION

## 1.1 Final Subsequent Environmental Impact Report Context

The Stream Maintenance Program (SMP) Renewal (Program Renewal) has been proposed by the Santa Clara Valley Water District (Valley Water). A Draft Subsequent Environmental Impact Report (DSEIR) for the Program Renewal was prepared and distributed for public review on July 21, 2025 (State Clearinghouse No. 2000102055), by Valley Water, as the lead agency under the California Environmental Quality Act (CEQA). This Final Subsequent Environmental Impact Report (FSEIR) addresses the environmental impacts of the proposed Program Renewal and approvals necessary to continue carrying out Valley Water's responsibilities in an environmentally responsible and cost-effective manner, while acting as the County of Santa Clara's (County's) water wholesaler and flood protection agency and the steward for its streams and creeks, underground aquifers, and reservoirs on which Valley Water holds land rights.

The FSEIR is subsequent to the 2012 SMP-2 SEIR (Valley Water 2011). Although the SMP is an ongoing program, the SMP-1 Manual and final environmental impact report (FEIR), certified in 2002, used a 20-year planning horizon to forecast SMP activities and consider potential environmental effects. In 2011, Valley Water updated the Program and Manual to cover the second program period (2012-2022), which is referred to as SMP-2 and involved renewing necessary SMP permits and environmental compliance documentation. A DSEIR and FSEIR were prepared for the SMP-2 update, and the FSEIR was certified in 2012.

In 2023, Valley Water requested extensions from regulatory agencies for various SMP-2 permits that were set to expire in 2023. Valley Water received several permit extensions with variable expiration dates. Dates of the permit extensions are provided in Table 2-9 in Chapter 2, *Project Description*, of the revised DSEIR (Volume II). The permit extensions will cover the gap from 2023 through 2026.

The Proposed Program Renewal would update the 2012 SMP, as necessary, to address new conditions and maintenance needs of Valley Water. Valley Water has determined that the previous SMP and related circumstances have changed substantially enough that the preparation of a subsequent DEIR was appropriate. Specifically, the following types of changes to the SMP contributed to this decision:

- New maintenance activities are proposed (e.g., addition of hazard tree management, addition of the removal of trees greater than 12 inches diameter at breast height (dbh), and expansion of the minor maintenance work category and animal conflicts category).

- Updates to Program work limits are proposed.

- Updates to the Program's mitigation approach and refinements to the Best Management Practices (BMPs) are proposed.

In addition, several changes in the physical and regulatory environment have occurred, as follows:

- Several species are now listed as threatened or endangered under either the California or federal Endangered Species Act that were not listed in 2012, and several other non-listed species have been identified as special status species that were not special status species in 2012.

- The CEQA Guidelines were updated with additional requirements regarding the analysis of resources such as paleontological resources, global climate change, biological resources, tribal cultural resources, water resources, energy, wildfire, transportation, cultural resources, and hazardous materials.

The Program Renewal (including the 2027-2036 SMP Manual [Appendix A] and this CEQA document) is intended to support permitting for the next 10-year planning period beginning in 2027 and ending in 2036. These Program Renewal documents are intended to fully replace the original documents that guided the SMP from its inception through 2036. The 2027-2036 SMP Manual (included as Appendix A in Volume II of this FSEIR) and the contents of the FSEIR are meant to be read as companion documents. The FSEIR references or summarizes information (including figures and tables) presented in the 2027-2036 SMP Manual frequently to avoid repeating information. The reader is encouraged to review the 2027-2036 SMP Manual while reviewing the FSEIR.

The overall goals of the Program Renewal are to maintain the flow conveyance capacity of Valley Water flood protection facilities to reduce flood risks and ensure public safety, and to maintain the structural and functional integrity of Valley Water flood protection facilities and lands. To meet these goals, Valley Water prioritizes and administers maintenance activities to achieve the following objectives:

- Remove the necessary sediment to provide flow conveyance and safety while maintaining habitat functions in creek systems;

- Manage vegetation to maintain access, flow conveyance, flood protection, and public safety in Valley Water's channels and right-of-way. Vegetation management is also conducted to reduce fire fuel loads and wildfire risk and preserve the structural integrity of flood protection facilities. Vegetation management may also be conducted to promote overall ecological health, improve habitat for sensitive species, maintain restoration sites, and promote stewardship;

- Manage vegetation to allow levee inspections and provide inspection visibility and access to maintenance work sites;
- Stabilize eroding stream and channel beds and banks to protect existing infrastructure, maintain public safety, reduce sediment loading, protect water quality, and protect habitat values; and

- Avoid, minimize, or mitigate impacts on the environment by identifying and prioritizing when maintenance work is necessary and incorporating stream stewardship measures to further reduce potential impacts and enhance ecologic function where possible.

The Program Renewal also seeks to obtain and maintain multi-year programmatic permits to regulate Proposed Program Renewal activities.

See Chapter 2, *Project Description*, of the revised DSEIR (Volume II) for a complete description of the Proposed Program Renewal.

This document has been prepared pursuant to the requirements of CEQA. Section 15132 of the State CEQA Guidelines state:

> The Final EIR shall consist of:
>
> - The draft EIR or a revision of the draft [included as Volume II, the DSEIR as revised based on public comments and other necessary updates];
> - A list of persons, organizations, and public agencies commenting on the DSEIR [included in Section 3.2 of this FSEIR];
> - Comments and recommendations received on the DSEIR, either verbatim or in summary [included in Section 3.3 of this FSEIR];
> - The responses of the Lead Agency [in this case, Valley Water] to significant environmental points raised in the review and consultation process [included in Section 3.3 of this FSEIR]; and
> - Any other information added by the Lead Agency [in this case, Valley Water] [included in Section 3.4 of this FSEIR]

The FSEIR provides Valley Water, public, responsible agencies, trustee agencies, and permitting agencies with information about the environmental effects associated with the approval and implementation of the Program Renewal. The FSEIR presents the comments received on the DSEIR and responses to these comments.

## 1.2 Comments on the DSEIR

The DSEIR was submitted to the State Clearinghouse for distribution to state agencies and was available to agencies and the public for review and comment for 59 days between July 21, 2025, and September 17, 2025. A virtual public information meeting was conducted on August 27, 2025, to receive oral and written comments. No comments were received during the public meeting. Letters of comment were received from two state agencies.

## 1.3 Organization and Contents of the FSEIR

The FSEIR, which consists of two volumes, will be the subject of a hearing to certify the SEIR. **Volume I** provides:

> **Chapter 1, Introduction,** presents the FSEIR context and its objectives, summarizes the public review for the DSEIR, and describes the organization and contents of the FSEIR.
>
> **Chapter 2, Summary of Public Participation,** summarizes the EIR public review process, pursuant to CEQA.
>
> **Chapter 3, Responses to Comments and DSEIR Revisions,** lists and gives identifiers to agencies who commented on the DSEIR during the public review process, replicates in full the comment letters received, and gives responses to those comments. Comments within each letter are numbered sequentially. Excerpts of text from the DSEIR that have changed as a result of the comment/response are shown within the response, for ease of reference (in addition to being shown in Volume II). Chapter 3 also includes other revisions made to the DSEIR.

**Volume II** is the DSEIR, including Appendix A (Proposed Program Renewal) as revised subsequent to its publication and public review. Revisions are shown with ~~strikethrough~~ text for deletions and <u>underlined</u> text for additions.

None of the comments, responses, or DSEIR revisions constitute "significant new information" that would require further Draft EIR recirculation under CEQA Guidelines Section 15088.5. Commenting agencies will receive a notice of the Final EIR's availability, including proposed responses to their comments and proposed revisions to the EIR, at least 10 days before Project approval.

# Chapter 2
# SUMMARY OF PUBLIC PARTICIPATION

## 2.1 Notice of Preparation and Public Scoping

A Notice of Preparation (NOP) for the Program Renewal was prepared in accordance with the CEQA Guidelines Section 15082 and was circulated through the Office of Planning and Research's State Clearinghouse on May 27, 2022 (State Clearinghouse Number 2000102055). The NOP response period started on May 27, 2022, and continued for 30 days, concluding on June 27, 2022. The NOP presented general background information on the SMP, the scoping process, and the environmental issues to be addressed in the DSEIR. Copies of the NOP were distributed by mail and email to a broad range of stakeholders, including state, federal, and local regulatory agencies and jurisdictions, utilities, and interested individuals in the area. In addition, the NOP was published on Valley Water's website:

https://www.valleywater.org/project-updates/stream-maintenance-program

The NOP is included in Volume II, Appendix B, *Notice of Preparation and Comments Received*, in this FSEIR.

To provide the public, as well as responsible and trustee agencies, an opportunity to ask questions and submit comments on the SMP and the scope of the DSEIR, Valley Water held a public scoping meeting on June 16, 2022, at 5:45 p.m. at the Valley Water Headquarters Building Boardroom and via Zoom during the public scoping period. As described above, notices of the meeting were mailed to interested parties; in addition, scoping meeting information was published prior to the event on Valley Water's website (link provided above).

Valley Water accepted verbal and written comments at the scoping meeting and accepted both written and electronic comments (via email) during the 30-day scoping period. During the scoping period, nine comment letters were received. These comments were considered in preparing this DSEIR and are summarized in Appendix B.

## 2.2 Notice of Availability of the DSEIR and Public Review

After the DSEIR was completed, Valley Water issued a Notice of Availability, providing agencies and the public with formal notification that the document was available for review. The notice was sent to the State CEQA Clearinghouse, all responsible and trustee agencies, persons and organizations requesting a copy, and the county clerk's office for posting. The notice also was published in the *Mercury News* and was posted to Nextdoor (a neighborhood-based social networking platform). These actions triggered a 59-day[1] public review period,

[1] Valley Water extended the original 45-day public review period by two weeks (14 days), which extended the public review period from 45 days to 59 days.

during which Valley Water received only two agency comments on the Program Renewal document.

Valley Water hosted a virtual public information meeting after release of the document on August 27, 2025. The purpose of public circulation and the public information meeting was to provide agencies and interested individuals with opportunities to comment on or express concerns regarding the contents of the DSEIR. No comments were received at the public meeting.

For those interested, written comments or questions concerning the DSEIR could be submitted within the review period and directed to the name and address listed below.

Santa Clara Valley Water District
Attention: Billy Williams, Senior Environmental Planner
5750 Almaden Expressway
San Jose, CA 95118-3686
Bwilliams@valleywater.org

During the review period for the DSEIR, all documents related to the Proposed Program Renewal were available for review on any Valley Water business day between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday at Valley Water headquarters, located at the address shown above, and on Valley Water's Web site at:

https://www.valleywater.org/public-review-documents

and upon request at (408) 630-2090. The documents also were available at the libraries listed below during their normal operating hours.

Dr. Martin Luther King, Jr. Library
150 E. San Fernando Street
San Jose, CA 95112

Morgan Hill Public Library
660 W. Main Avenue
Morgan Hill, CA 95037

Palo Alto (Rinconada) Public Library
1213 Newell Road
Palo Alto, CA 94303

Cupertino Public Library
10800 Torre Avenue
Cupertino, CA 95014-3207

Milpitas Public Library
160 N. Main Street
Milpitas, CA 95035

## 2.3 Certification of the FSEIR and Project Approval

After publication and review of the FSEIR, the Valley Water Board of Directors will consider certifying the FSEIR as complying with CEQA, adopting CEQA findings of fact and, if necessary, a statement of overriding considerations for significant and unavoidable impacts, and approving the Program Renewal. A Notice of Determination (NOD) would then be filed with the governor's Office of Land Use and Climate Innovation and at the County Clerk's office (14 Cal. Code Regs. Section 15093[c]).

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# Chapter 3
# COMMENTS, RESPONSES TO COMMENTS AND DSEIR REVISIONS

## 3.1 Comments Introduction

Comments provided on the DSEIR by the two state agencies during the public review period (July 21 through September 17, 2025) are documented in this chapter. A list of all commenters is provided in Section 3.2. Valley Water received 2 letters, containing a total of 35 comments. Responses to these two comment letters are presented in Section 3.3. No comments on the DSEIR were received at the public meeting.

## 3.2 List of Comment Letters Received

The two comment letters received on the DSEIR are listed in Table 3-1 alphabetically and were received on the same date. They were assigned a letter designation on this basis.

**Table 3-1.** Commenters on the DSEIR

| Letter No. (# of Comments) | Commenter | Date of Comment |
|---|---|---|
| A (13) | Phillip Hammer, Central Coast Regional Water Quality Control Board | September 17, 2025 |
| B (22) | Elizabeth Morrison, San Francisco Bay Regional Water Quality Control Board | September 17, 2025 |

## 3.3 Comments, Responses to Comments, and DSEIR Revisions

This section presents a copy of each comment letter that was received on the DSEIR during the review period, bracketing the individual comments in alpha and numeric order. Responses to issues raised in each letter follow immediately after the letter, sequentially. Excerpts of text from the DSEIR that have changed as a result of the comment/response are shown within the response, for ease of reference (in addition to being shown in Volume II).

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# Letter A: Central Coast Regional Water Quality Control Board

California Water Boards

Gavin Newsom, Governor

Yana Garcia, Secretary for Environmental Protection

## Central Coast Regional Water Quality Control Board

September 17, 2025

Billy Williams
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3686
Email: bwilliams@valleywater.org

**VIA ELECTRONIC MAIL**

Dear Billy Williams:

**COMMENTS ON THE DRAFT SUBSEQUENT ENVIRONMENTAL IMPACT REPORT FOR THE SANTA CLARA VALLEY WATER DISTRICT'S STREAM MAINTENANCE PROGRAM RENEWAL, SANTA CLARA COUNTY, STATE CLEARINGHOUSE FILE NO. 2022050564**

A-1 The Central Coast Regional Water Quality Control Board (Central Coast Water Board) appreciates the opportunity to comment on the Draft Subsequent Environmental Impact Report (Draft SEIR) for Santa Clara Valley Water District's (Valley Water's) Stream Maintenance Program (SMP) Renewal (Project), prepared by Valley Water (State Clearinghouse No. 2022050564). Thank you for extending the public comment period to September 17, 2025.

As a responsible agency pursuant to California Environmental Quality Act (CEQA), we offer the following comments on the Draft SEIR to provide input on the Project's potential environmental effects and potential alternatives to avoid and minimize these impacts to aquatic resources.

**Comments**

1. Program Limits

A-2 Section 2.10.3 of the Draft SEIR describes conditions that will be applied to bank stabilization projects performed under the SMP. However, these conditions do not adequately address the potential cumulative impact of hardscape placed in the stream channel year after year. Though there is a required separation of 250 feet between bank stabilization repair sites, there is no limit to the total number of bank stabilization projects per year, nor is there a limit on what percentage of the stream channel can be composed of hardscape. The conditions as written allow for a large percentage of stream channel to be composed of hardscape, which can be impactful to water quality and beneficial uses. We recommend a condition be developed to limit the percentage of

A-2 cont. a stream channel that is composed of hardscape in order to reduce cumulative impacts to less than significant levels.

2. Work Window Extension Requests

A-3 It is not always feasible for Central Coast Water Board staff to approve work window extension requests within one week of receiving the request. It is currently written in our Water Quality Certification that requests to conduct construction activities below top of creek banks or in other waters of the State during the winter period shall be submitted to the Central Coast Water Board at least 21 days prior to the planned winter period work date. The language in the Draft SEIR should be adjusted to give Central Coast Water Board staff 21 days to approve work window extension requests.

3. Minor Maintenance Activities

A-4 Section 8.2.1 of Appendix A of the Draft SEIR states that "A minor maintenance activity is work that results in the removal of less than 0.08 acre (3,485 square feet) of wetland or riparian vegetation." It is also stated in Table 10-1 that, for bank stabilization projects, mitigation is not required for cumulative temporary impacts that are less than the per-project maximum (3,485 sq ft) for minor maintenance activities. Temporary impacts should always at least be restored to pre-project conditions, despite the size of impact, to ensure that the discharge is protective of water quality and beneficial use of waters of the state. To demonstrate that temporary impacts will be reduced to less than significant levels, the Draft SEIR should be edited to clarify that temporary impacts will be fully restored.

4. Compensatory Mitigation

a. Mitigation for Impacts to Trees

A-5 Central Coast Water Board staff previously commented on tree mitigation ratios in SMP-3 but did not see a change in the Draft SEIR or Appendix A of the Draft SEIR. The proposed tree mitigation ratios do not ensure tree removal-related impacts will be reduced to less than significant levels. A 1:1 mitigation ratio may not be sufficient for removal of all non-invasive trees >6" dbh. A 1:1 replacement ratio generally does not offset temporal impacts during regrowth of trees to maturity or address the difficulty in re-establishing fully mature trees. Central Coast Water Board staff advises Valley Water to adjust their proposed mitigation ratios for removal of non-invasive trees >6'' dbh and refer the approved tree mitigation ratios in SMP-2 when developing these new ratios.

A-6 In addition, removal of hazardous or related trees >6" dbh that provide an ecological benefit may require mitigation in order to reduce impacts to less than significant levels. Hazardous trees are defined in section ES 3.3 of the Draft SEIR as including "dead or dying trees, parts of live trees, or unstable live trees." Though we understand that these trees may require removal, they can also provide ecological

A-6 cont.

functions and value, that if lost, can result in significant impacts to wildlife habitat. The Draft SEIR should include mitigation for hazardous trees that provide ecological functions and value.

A-7

Appendix A of the Draft SEIR also includes a new tree removal activity that was not authorized under SMP-2. Appendix A of the Draft SEIR proposes that the removal of trees >12'' dbh be authorized. Mitigation ratios should be proposed in the Draft SEIR for this new category of activity to reduce impacts to less than significant levels.

b. Mitigation for Impacts to Wetlands

A-8

The current proposed additional ratio of 0.1 for wetland vegetation that reestablishes within two years does not adequately compensate for two years of temporal loss of wetland values and functions. The standard additional ratio of 0.1 per year is necessary to reduce wetland impacts to less than significant levels, due to the high level of functions that wetlands provide as well as wetland scarcity.

c. Mitigation Credits

A-9

Table 10-1 in Appendix A of the Draft SEIR includes discussion of impact ratios and how they are modified by the Valley Habitat Plan (VHP). The Central Coast Water Board does not currently accept purchase of VHP credits as mitigation for impacts to water of the state without further substantiation that the credit purchases will directly offset impacts to waters of the state. The Central Coast Water Board may accept mitigation credits purchased in accordance with the VHP In-Lieu Fee Program (ILFP). Footnote 2 of Table 10-1 of Appendix A of the Draft SEIR should be updated to clarify applicability of VHP and ILFP mitigation credits.

5. Best Management Practices

A-10

Table 2-10 of Appendix A of the Draft SEIR includes the use of geotextile fabric as erosion control. Geotextile fabric essentially creates an impermeable layer that prevents vegetative growth, resulting in significant impacts to habitat. To reduce impacts to less than significant levels, Appendix A should clarify that geotextiles will only be used when biodegradable materials, such as straw matting erosion control blankets will be ineffective or infeasible.

6. Grazing for Fire Resiliency

A-11

The conditions that are currently proposed for regulating grazing for fire resiliency do not ensure that water quality and beneficial uses will be protected. When regulating grazing in waters of the state, Central Coast Water Board applies various conditions to ensure the protection of water quality and beneficial uses. These conditions include but are not limited to:

- Establish and adhere to livestock density limits based on vegetation type and terrain that will prevent overgrazing and land degradation;

A-11 cont.

- Exclude grazing in areas where the vegetation is at risk of being reduced to bare soil. Ensure that ground cover remains sufficient to prevent soil erosion and protect water quality;
- Implement rotational grazing to prevent overgrazing and soil compaction;
- Do not conduct prescribed herbivory activities during a rain event, within 24 hours of a predicted rain event, or when soils are wet, saturated, or subject to compaction; and
- Provide livestock access to clean, offstream water sources such as troughs or wells to reduce the reliance on natural waterbodies and minimize streambank damage.

The final EIR should contain a more detailed description and comprehensive analysis of impacts associated with grazing within waters of the state and identify mitigation measures that will be implemented to reduce impacts associated with this activity. Discussion of grazing animals within Sections 2.7.1 of the Draft SEIR and 4.3.6 of Appendix A of the Draft SEIR do not demonstrate that sufficient mitigation measures will be implemented to reduce impacts associated with grazing animals in waters of the state to less than significant levels.

A-12

7. Fire Resiliency

Section 4.2.4 of Appendix A of the Draft SEIR does not adequately describe the extent of the vegetation management that may occur for wildfire resiliency. The document indicates that if the work is determined by a Registered Professional Forester to provide an ecological benefit, then no mitigation will be implemented. Without any detail about the potential magnitude of this work, the Draft SEIR does not adequately identify and characterize resulting potential impacts to wildlife habitat within waters of the state. While many actions for wildfire resiliency can be beneficial to wildlife habitat, this can be dependent on the magnitude and methods of the work. The Draft SEIR should describe the magnitude of this work in greater detail and identify potential impacts and any necessary mitigation to ensure impacts will be reduced to less than significant levels.

**Closing**

A-13 The Central Coast Water Board appreciates the opportunity to comment on the Draft SEIR for Valley Water's Stream Maintenance Program Renewal. We look forward to continuing to work collaboratively with Valley Water on this project. If you have any questions about our comments, please contact Allie Mortensen by email at Allie.Mortensen@waterboards.ca.gov or via phone at (805) 542-4627.

Sincerely,

Digitally signed by Phillip Hammer
Date: 2025.09.17 11:24:42 -07'00'

Water Boards

for
Ryan E. Lodge
Executive Officer

cc: Valley Water:
Jon Jankovitz, JJankovits@valleywater.org
Jeffrey Lewis, JLewis@valleywater.org

CDFW:
Michelle Battaglia, Michelle.Battaglia@Wildlife.ca.gov

U.S. Army Corps, of Engineers:
Katerina Galacatos, katerina.galacatos@usace.army.mil

San Francisco Bay Water Board:
Susan Glendening, Susan.Glendening@Waterboards.ca.gov

**Response to Comment A-1**

The comment expresses appreciation for the opportunity to provide input and for the extension of the public comment period and provides introductory context for the subsequent comments.

Comment noted; no further response needed.

**Response to Comment A-2**

The commenter asserts that the conditions stated in Section 2.10.3 of the Draft Subsequent Environmental Impact Report (DSEIR) do not adequately address the potential cumulative impact of hardscape placed in the stream channel year after year, and recommends that a condition be developed to limit the percentage of a stream channel that is composed of hardscape to reduce cumulative impacts to less-than-significant levels.

Section 2.10.3 of Chapter 2, *Project Description*, beginning on page 2-40[1], states that while there is no limit to the total number of bank stabilization projects that may occur each year, there is an annual limit of one linear mile of channel that can be replaced with hardscape, softscape or hybrid methods. Additionally, as stated in Appendix A (SMP Manual) in Chapter 6, *Bank Stabilization* (page 6-7), when an existing hardened bank site is evaluated for stabilization work, Valley Water assesses whether a softscape method could be used instead of a hardscape, in-kind replacement. When the site conditions are suitable, soft or hybrid bank stabilization measures may replace hardscape bank treatments. As discussed below, during SMP-2, only 35% of bank stabilization work involved new hardscape and 4% involved in-kind replacement of existing hardscape. In contrast, 53% of bank repair length was softscape and 8% used hybrid methods. It is reasonably foreseeable that these trends would continue for the Program Renewal.

Note, there may be certain situations where SMP activities may return a channel to a more natural state through the replacement of existing hardscape with softscape or hybrid methods. In some instances, this might be proposed as a means of compensatory mitigation. To facilitate this approach, hardscape areas that are replaced with softscape or hybrid methods may exceed the per-project limits and will not be counted toward the annual maximum one-mile limit.

As stated in Section 2.7.3 of the DSEIR, from 2014 to 2020, Valley Water stabilized a total of 1.7 miles of channel banks, which equates to an average of about 0.24 mile of channel bank or levee repair each year. Stabilization of 0.24 mile of channel bank per year is well under the Program's annual limit of one linear mile of channel per year. It is reasonably foreseeable that these trends would continue for the Program Renewal.

Valley Water also reviewed SMP-2 bank repair data from 2014 through 2024, using the length of bank repair work as the primary metric, and found that the use of new hardscape as a bank stabilization method has generally decreased over the course of SMP-2. There is some fluctuation in the percentage of new hardscape used from year to year based on that year's specific project needs, but the general trend over SMP-2 has been toward a decreasing percentage of bank repairs using hardscape. The portion of bank repairs that used new hardscape during each year of SMP-2 is shown in Table 1 below. It is reasonably foreseeable that these trends would continue for the Program Renewal.

[1] Page numbers from the DSEIR and SMP Manual that are cited in the responses refer to the revised text, as provided in Volume II of this FSEIR.

**TABLE 1**.

**Percentage of Bank Repairs Using New Hardscape by Year, 2014-2024**

| Year | Percent New Hardscape Out of Total Bank Repairs |
|---|---|
| 2014 | 100% |
| 2015 | 74% |
| 2016 | 52% |
| 2017 | 21% |
| 2018 | 32% |
| 2019 | 18% |
| 2020 | 25% |
| 2021 | 54% |
| 2022 | 24% |
| 2023 | 2% |
| 2024 | 57% |
| **TOTAL** | **35%** |

Source: Data derived from Valley Water's SMP-2 database.

Because of (1) the annual limit of one linear mile of channel that can be replaced with hardscape, softscape or hybrid methods; (2) the downward trend of utilizing hardscape as a bank stabilization method; and (3) the average of only 0.24 mile of stream channel bank stabilization projects per year, program-wide Program Renewal water quality impacts (which the commenter refers to as cumulative impacts) resulting from implementing hardscape bank stabilization projects would remain less than significant with mitigation (see Impact WQ-2 in DSEIR Section 3.14, *Water Quality*). Therefore, there is no need to develop further limits on the percentage of stream channel that can be composed of hardscape to reduce cumulative impacts to less-than-significant levels. No changes to the DSEIR are required.

**Response to Comment A-3**

The commenter reiterates what is written in the SMP's existing Water Quality Certification, which requires Valley Water to submit requests to conduct construction activities below top of creek banks or in other waters of the state during the winter period to the Central Coast RWQCB at least 21 days prior to the planned winter work date. The commenter requests that the language in the DSEIR (BMP GEN-1) regarding approval of work window extensions within one week be adjusted to state that the RWQCB will be provided 21 days to approve work window extension requests.

This comment does not pertain to the Program Renewal's environmental impacts, and no response is required under CEQA. No changes to the DSEIR are required. Valley Water will follow up with the commenter during the permit development process to discuss appropriate timelines.

**Response to Comment A-4**

The commenter states that temporary impacts from minor maintenance activities should always be restored to pre-project conditions, despite the size of the impact, to ensure that the discharge does not impact water quality or beneficial uses of waters of the state, and that the DSEIR should be edited to clarify that temporary impacts will be fully restored.

Valley Water agrees in principle that temporary impacts from minor maintenance activities should be restored to pre-project conditions; however, many temporary impacts that result from minor maintenance activities are restored through implementation of Valley Water Best Management Practices (BMPs). For example, implementation of BMP REVEG-1 (Seeding) ensures that disturbed areas are seeded with native seed mix after maintenance activities are complete, and implementation of BMP REVEG-2 (Planting Material) ensures that revegetation and replacement plantings will consist of locally collected materials so that sites can be restored with similar vegetation.

Although most minor maintenance activities would not result in temporary impacts, Valley Water reports on minor maintenance activities that would result in impacts greater than 436 square feet. From 2014 through 2024, Valley Water conducted only three minor maintenance activities that resulted in more than 436 square feet of temporary impacts to vegetation, for a total of 6,119 square feet (0.14 acre) of temporary impacts. Additionally, all three of these minor maintenance activities were conducted to protect water quality and improve the ecological health of the stream and riparian corridor. Two of these projects were replacement of aging fences to reduce the scale of encampment impacts and one was the removal of an extremely large amount of trash that had been generated by encampments. It is reasonably foreseeable that this trend of few minor maintenance activities with greater than 436 square feet of temporary vegetation impacts would continue for the Program Renewal.

Implementation of BMPs would reduce any temporary impacts associated with minor maintenance activities, and few minor maintenance projects resulting in impacts greater than 436 square feet are anticipated under the Program Renewal. The DSEIR adequately analyzes water quality impacts associated with minor maintenance activities; thus, no changes to the DSEIR are required.

**Response to Comment A-5**

The commenter suggests that a 1:1 mitigation ratio may not be sufficient for removal of non-invasive trees >6" diameter at breast height (dbh) and that Valley Water should use the mitigation ratios that were approved for SMP-2.

Valley Water agrees to use the mitigation ratios that were approved in SMP-2 for the removal of non-invasive trees that are >6" inches dbh. Each non-invasive tree proposed for removal will be evaluated by a qualified biologist for its existing condition, local area value, ecosystem benefits, and ecosystem detriments. Based on these factors and overall quality and function of the tree to be removed, a tree replacement ratio of either 2:1 or 3:1 (replacement tree to removed tree), as approved for SMP-2, will be applied.

Mitigation Measure BIO-12: Compensatory Mitigation for Impacts to Woody Riparian Vegetation on pages 3.4-303 and 3.4-304 in Section 3.4, Biological Resources, and on pages I-24 and I-25 in **Appendix I,** *Mitigation Monitoring and Reporting Program*, has been revised as follows:

> Riparian revegetation would be conducted to establish and/or enhance habitat for native wildlife species while providing shade, sources of organic matter, coarse woody debris, improved root and soil structures and other benefits. Revegetation would occur in the same watershed as the impact and would follow the typical planting palette provided in Chapter 10 or a site-specific palette would be used. ~~Removal of trees >6" dbh that is not mitigated through the VHP will be mitigated through revegetation at a minimum 1:1 ratio.~~ Removal of non-invasive trees >6" dbh that is not mitigated through the VHP will be mitigated through revegetation at either a 2:1 or 3:1 (replacement tree to removed

tree). All native trees >6" dbh that are removed will be mitigated at a 3:1 ratio. All non-native trees >6" dbh that are not classified as invasive species will be mitigated at a 2:1 ratio. ~~For each removed non-invasive tree >6" dbh that provides unique functions and values and is otherwise healthy that is removed, Valley Water will install one native tree on a mitigation site within the same watershed~~. The removal of >6" dbh western sycamores and native oaks must be replaced in-kind; otherwise, there is no requirement to match species when replacing trees.

Additionally, in Table 10-1 in Chapter 10, *Mitigation Program*, in Appendix A (SMP Manual) on page 10-8, a range of 2:1 to 3:1 has been inserted to replace the 1:1 ratio that was listed in the Proposed Mitigation Ratio column for the removal of non-invasive trees >6"dbh. Text in the Notes column on page 10-8 has also been edited to state the range of mitigation ratios. Footnote number 5 has been deleted. The edits are as follows:

**TABLE 10-1**
**Summary of Proposed SMP-3 Mitigation Ratios**

| Impact Type | Proposed Mitigation Ratio[1] | Notes | Mitigation Options[6] | SMP Permanently Mitigated Areas (PMA) Established? | VHP Covered Activity (VHP Impact Fee Required or ILF?)[2] |
|---|---|---|---|---|---|
| Removal of non-invasive trees >6" dbh[4,5] | ~~1:1~~ 2:1 or 3:1 Tree Replacement Count | All native trees >6" dbh that are removed will be mitigated at a 3:1 ratio. All non-native trees >6" dbh that are not classified as invasive species will be mitigated at a 2:1 ratio. ~~The 1:1 tree replacement count applies to the removal of non-invasive trees, including hazard trees that are otherwise healthy.~~<br>The removal of invasive trees and certain hazard trees (e.g., diseased ones) that provides an ecological benefit does not require mitigation. | Encampment clean-up, grant program for local watershed groups, revegetation, ~~reach characterization sheets,~~ post-wildfire recovery | No | Yes |

**Notes:** dbh = diameter at breast height; PMA = permanent mitigation area; sq ft = square feet

~~*Unless covered by the VHP Plan.~~

[1] Mitigation ratios are presented as mitigation obligation: area of impact except where noted as volume of impact. A ratio of 0:1 indicates the activity is self-mitigating. Mitigation ratios may be modified on a project-by-project basis in negotiation with regulatory agencies during the NPW process.

[2] Assuming the SMP is eventually covered under the VHP amendment, SMP-3 maintenance activities that occur within the VHP area would be subject to habitat and land cover impact fees for the indicated activities; in this case, the proposed mitigation ratios will no longer be relevant. If maintenance activities occur outside of VHP-covered areas, or if a species is not covered under the VHP, mitigation would apply as described in Section 10.5.3.

[3] PMAs have been established for sediment removal, removal of vegetation less than 6 inches dbh below OHWM, and aquatic herbicide application.

[4] This includes the removal of both native and non-native trees that are non-invasive.

~~[5] If the tree is determined to provide unique functions and values, removal of the tree will be mitigated at a 1:1 ratio.~~

**Response to Comment A-6**

The comment states that removal of hazardous or related trees >6" dbh that provide ecological function and value should require mitigation in the SEIR to reduce impacts to less-than-significant levels.

As stated in Section 3.4, *Biological Resources*, Valley Water recognizes that some permanent impacts could occur where hazard tree removal results in modifications to natural areas. To account for this, a 25% buffer has been added to permanent vegetation management impact estimates to account for the hazard tree removal. This is reflected in pages 3.4-94 to 3.4-95 of the SEIR text that states, "A 25 percent buffer has been added to permanent vegetation management impact estimates to account for the hazard tree Program Renewal, and a 10 percent buffer has been added to all other impact estimates, to ensure that these estimates are conservative and encompass all Program Renewal activities."

It should be noted that, in cases where tree removal activities are not covered under the VHP, Valley Water will implement BMP GEN-20 (Hazard Tree Removal), which requires Valley Water to revegetate affected areas with native woody vegetation components where more than five adjacent hazard trees 12" dbh or larger have been removed or where a stand of trees has been removed with a canopy area equal to or larger than 2,000 square feet. Implementation of BMP GEN-20 will also ensure that no tree known to be occupied by a bald eagle or golden eagle nest that was active within the prior five years would be removed under the Program Renewal.

Additionally, the removal of hazard trees would result only in the removal of trees expected to fall imminently or in the next five years. Thus, these trees would fall even without implementation of the Program Renewal activities. Further, the removal of hazard trees would reduce the potential for the spread of pathogens, which could result in the loss of bat roosting habitat and would reduce the potential for an unhealthy tree to kill or damage a bat roost in a nearby tree if it were to fall unexpectedly. Thus, the primary loss of roosting habitat that could occur under the Program Renewal would be due to the removal of non-hazard trees >12" dbh. However, such unoccupied trees that may potentially be suitable roosting sites for bats are widely available in the region (see Section 3.4, *Biological Resources*, page 3.4-273, in the DSEIR). Thus, impacts on bat roosting habitat caused by the removal of these trees are considered less than significant.

Permanent impacts from hazard tree removal are accounted for in the vegetation management impact estimates and are considered less than significant. Impacts to bat roosting habitat would be less than significant as well.

Upon further review of the BMPs listed under Impact BIO-2A in Section 3.4, *Biological Resources*, in the DSEIR, Valley Water has added BMP GEN-20 to the list of BMPs on page 3.4-301 to further reduce impacts from hazard tree removal. Additionally, for revegetation in areas where more than five hazard trees or a stand of trees with a canopy area equal to or larger than 2,000 square feet have been removed, text has been added in the Notes column in Table 10-1 on page 10-8 of Appendix A (SMP Manual), as shown below.

**TABLE 10-1**
**Summary of Proposed SMP-3 Mitigation Ratios**

| Impact Type | Proposed Mitigation Ratio[1] | Notes | Mitigation Options[6] | SMP Permanently Mitigated Areas (PMA) Established? | VHP Covered Activity (VHP Impact Fee Required or ILF?)[2] |
|---|---|---|---|---|---|
| Removal of non-invasive trees >6" dbh[4,5] | ~~1:1~~ 2:1 or 3:1 Tree Replacement Count | All native trees >6" dbh that are removed will be mitigated at a 3:1 ratio. All non-native trees >6" dbh that are not classified as invasive species will be mitigated at a 2:1 ratio.<br>If tree removal results in more than five adjacent hazard trees, each 12" dbh or larger, or a stand of trees with a canopy area equal to or larger than 2,000 square feet, the affected area will be revegetated with native woody vegetation components. ~~The 1:1 tree replacement count applies to the removal of non-invasive trees, including hazard trees that are otherwise healthy.~~<br>The removal of invasive trees and certain hazard trees (e.g., diseased ones) that provides an ecological benefit does not require mitigation. | Encampment clean-up, grant program for local watershed groups, revegetation, ~~reach characterization sheets,~~ post-wildfire recovery | No | Yes |

## Response to Comment A-7

The comment states that mitigation ratios should be proposed for the removal of trees >12" dbh, which is a new activity proposed for the Program Renewal and was not an authorized activity under SMP-2.

As described in Chapter 2, *Project Description*, removal of non-hazard trees >12" dbh would be limited to 20 live tree removals per year and 150 live trees over the 10-year Program Renewal period. Additionally, as described in Response to Comment A-5, MM BIO-12 has been updated to include mitigation ratios of up to 3:1 for removal of non-invasive trees, including those trees >12" dbh. MM BIO-12 also requires a qualified biologist to evaluate each tree that is proposed for removal to determine the appropriate replacement ratio based on the tree's existing conditions and functions, local area value, ecosystem benefits, and ecosystem detriments. The size of a tree (i.e., dbh) is one of several factors that relates to a tree's ecosystem benefit and will be taken into account when a tree is being proposed for removal and in determining what type of mitigation is needed. Refer to Response to Comment A-5 for a discussion on mitigation ratios associated with tree removal.

**Response to Comment A-8**

The comment states that the current proposed additional mitigation ratio of 0.1[1] for temporary impacts to wetland vegetation does not adequately compensate for two years of temporal loss of wetland values and functions and that the standard additional ratio of 0.1 should be applied per year.

As described in Section 3.4, *Biological Resources* (pages 3.4-311 to 3.4-315), temporary impacts to wetland vegetation would be short term because vegetation would be restored to existing conditions within 1-2 years following maintenance activities. Temporal loss of wetland vegetation would not extend for a full two years but rather occur gradually, as vegetative recovery begins very soon after the vegetation is trimmed or removed, resulting in a 1- to 2-year full re-establishment period. As discussed in detail in Section 3.4 (pages 3.4-311 to 3.4-312), Valley Water has conducted extensive observation and research regarding the re-establishment of wetland vegetation following maintenance activities in Santa Clara County, and has found that wetland vegetation begins recovering very soon after maintenance activities occur and typically re-establishes fully within 1-2 years following maintenance activities such as sediment removal. During this 1- to 2-year re-establishment period, vegetation gradually grows back and the site begins to recover.

To account for RWQCB permitting requirements regarding temporal loss of wetlands during the re-establishment period, Valley Water has revised the mitigation ratio for temporary impacts to wetlands to state "0:1 to 0.1:1" on page 10-8 in Table 10-1 of Appendix A (SMP Manual). As reflected in updates to Table 10-1 of the SMP-3 Manual, temporal loss of wetlands can be mitigated through a suite of mitigation options, including but not limited to revegetation, encampment cleanup, trash removal, post-wildfire recovery, and grant programs for local watershed groups.

In cases where the maintenance activity does not remove vegetation down to root level (typically 16 to 18 inches below the surface) and no cut stump herbicide is applied and the vegetation has been left in place, then no mitigation is required and the current mitigation ratio of 0:1 adequately accounts for temporal loss of wetland vegetation that re-establishes within two years of maintenance activities; application of an additional ratio of 0.1 per year is not required. The SEIR appropriately concludes that temporary wetlands impacts would still be less than significant.

The following changes have been made to Table 10-1 on pages 10-8 and 10-9 of Appendix A (SMP Manual) to incorporate mitigation options for temporary impacts on wetlands.

**TABLE 10-1**
**Summary of Proposed SMP-3 Mitigation Ratios**

| Impact Type | Proposed Mitigation Ratio[1] | Notes | Mitigation Options[6] | SMP Permanently Mitigated Areas (PMA) Established? | VHP Covered Activity (VHP Impact Fee Required or ILF?)[2] |
|---|---|---|---|---|---|
| Temporary Impacts to Wetlands | 0.1:1 or 0:1 | ~~If the wetland vegetation reestablishes within 2 years following the impact.~~ In cases where the maintenance activity does not remove vegetation down to root level | ~~N/A~~ Revegetation, encampment cleanup, trash | N/A | Yes |

[1] The current proposed additional mitigation ratio of 0.1 for temporary impacts to wetland vegetation appears to be a typographical error from the commenter and instead should have stated 0:1.

| Impact Type | Proposed Mitigation Ratio[1] | Notes | Mitigation Options[6] | SMP Permanently Mitigated Areas (PMA) Established? | VHP Covered Activity (VHP Impact Fee Required or ILF?)[2] |
|---|---|---|---|---|---|
| | | (typically 16 to 18 inches below the surface) and no cut stump herbicide is applied and the vegetation has been left in place, then no mitigation is required. | removal, post-wildfire recovery, and grant programs for local watershed groups | | |

**Response to Comment A-9**

The comment states that the Central Coast RWQCB does not currently accept purchase of VHP credits as mitigation for impacts to waters of the state without substantial evidence that the credits will directly offset impacts to waters of the state. The comment also notes that the Central Coast RWQCB may accept mitigation credits purchased in accordance with the VHP In-Lieu Fee Program (ILFP) and requests a change to footnote 2 on Table 10-1 in Appendix A (SMP Manual).

The purchase of VHP credits to mitigate for impacts to waters of the state would directly offset any impacts to waters of the state and the substantiation would be provided in the annual reports as part of the permitting process. To further address Comment A-9, footnote 2 in Table 10-1 on page 10-11 in Appendix A (SMP Manual) has been revised as follows:

> [2]Assuming the SMP is eventually covered under the VHP amendment, SMP-3 maintenance activities that occur within the VHP area would be subject to habitat and land cover impact fees and/or purchase of ILF credits for the indicated activities; in this case, the proposed mitigation ratios will no longer be relevant. If maintenance activities occur outside of VHP-covered areas, or if a species is not covered under the VHP, mitigation would apply as described in Section 10.5.3.

**Response to Comment A-10**

The comment requests that clarification be added to Table 2-10 in Chapter 2.0, *Project Description*, and Appendix A (SMP Manual) to state that geotextile fabric will only be used when biodegradable materials would be ineffective or infeasible. BMP GEN-25 (Erosion and Sediment Control Measures) in Table 2-10 in Chapter 2, *Project Description* (page 2-83), and Table A-1 in Attachment A of Appendix A (SMP Manual) (page A-34) have been revised as follows:

> Erosion control measures may include, but are not limited to silt fences, straw bale barriers, brush or rock filters, storm drain inlet protection, temporary sediment traps, temporary sediment basins, erosion control blankets and mats, soil stabilization (i.e., tackified straw with seed, jute or geotextile blankets, etc.), wood chips, and straw mulch. Geotextile fabric will only be used when biodegradable materials (e.g., straw matting, erosion control blankets) are determined to be ineffective or infeasible.

**Response to Comment A-11**

The comment describes concerns with grazing activities resulting in impacts to water quality and beneficial uses; suggests conditions to ensure protection of water quality and beneficial uses; states that the DSEIR should contain a more detailed description and analysis of impacts to waters of the state associated with grazing; and states that the DSEIR should identify mitigation measures that would reduce impacts.

Grazing is, and will continue to be, excluded from wetted channels, wetlands, and other aquatic resources; therefore, grazing will not result in any direct impacts to water quality. Valley Water recognizes that indirect impacts to water quality could occur. To avoid indirect impacts, Valley Water's grazing activities are – and will continue to be – informed by a variety of recognized guidance documents that protect water quality, including the Natural Resources Conservation Service's (NRCS's) *Conservation Practice Standard 528: Grazing Management/ Prescribed Grazing*, the *California Rangeland Water Quality Management Plan* (CRWQMP), the U.S. Environmental Protection Agency's (USEPA's) *Nonpoint Source Guidance – Chapter 4E: Grazing Management Measures* (2003), and *Streamside Grazing Practices* (BMPBooks 2007). Valley Water's grazing activities primarily occur and will continue to occur in upland areas, outside of jurisdictional areas.

Additionally, to minimize indirect impacts and as described in Chapter 2, *Project Description* (page 2-26), before grazing commences, a Valley Water biologist will evaluate the targeted area to identify sensitive resources, including vegetation and aquatic resources (e.g., streams, wetlands). In accordance with BMP VEG-4 (Standard Grazing Procedures), fencing will be installed to exclude grazing animals from areas containing sensitive vegetation or other sensitive resources, thereby avoiding potential impacts on these resources and protecting water quality.

In response to Comment A-11 and to further protect water quality and beneficial uses, the following conditions have been added to BMP VEG-4 in Chapter 2, *Project Description* of the DSEIR (page 2-100), Chapter 4, Vegetation Management (page 4-24), and in Table A-1 in Attachment A of Appendix A (SMP Manual) (page A-53):

3. Grazing animals will be excluded from areas where they may negatively impact sensitive biological resources as directed by the qualified biologist.
4. Grazing animals will be excluded from wetted channels, saturated soils, and wetlands.
5. Grazing will not occur within 24 hours of rain events or when soils are saturated or subject to compaction.
6. Animals will be provided access to off-stream water sources such as troughs or wells.
7. Grazing will be managed to maintain sufficient vegetative cover to prevent erosion.
8. Grazing will be implemented on a rotational basis across designated areas to allow for vegetation recovery and minimize soil compaction.

**Response to Comment A-12**

The comment asserts that the DSEIR does not provide sufficient detail regarding vegetation management activities implemented for wildfire resiliency and requests additional description of these activities, their

potential impacts, and any necessary mitigation measures to ensure that impacts will be reduced to a less-than-significant level.

Vegetation management conducted for wildfire resiliency is not a separate program element; rather, it is incorporated into the Program's overall vegetation management framework and is fully accounted for within the general vegetation management limits evaluated throughout the document.

Vegetation management activities conducted for wildfire resiliency reduce combustible vegetative fuel loads, which reduces wildfire severity and risk and provides ecological benefits. Vegetation management activities for wildfire resiliency will include mowing, grazing, pruning, herbicide application, vegetation removal, invasive plant removal, and removal of dead or dying vegetation and trees. Each of these activities is detailed in Chapter 2, *Project Description,* and they are subject to the same limits, techniques, and BMPs described for vegetation management conducted for other Program Renewal purposes.

Valley Water conducts vegetation management activities for wildfire resiliency only under limited circumstances: (1) if vegetation at Valley Water facilities presents a fire hazard; (2) if a need for fire risk reduction is identified; (3) if flammable vegetation is present around encampments and a fuel ladder exists; (4) if dead, dying, or previously burned vegetation is observed that create a fire risk; or (5) if highly flammable vegetation is observed near high-value trees and other habitats. Work conducted for wildfire resiliency is performed only after an inspection of the facility and is determined on a site-by-site basis. Before conducting work, Valley Water will assess vegetation according to the maintenance triggers outlined in the SMP Manual. Additionally, for this work to be considered beneficial, a Registered Professional Forester (RPF) and/or qualified biologist must evaluate the site and determine if the vegetation management activities would improve the habitat function of the site.

Because wildfire resiliency work uses the same activity types, methods, and work limits as the Program Renewal's broader vegetation management component, its extent is already captured within the overall vegetation management quantities presented in the DSEIR. For example, over the 10-year Program Renewal period, vegetation removal below the top of bank is estimated to occur along 58.7 miles of channels in the Pajaro Basin, which includes vegetation removal conducted for wildfire resiliency purposes (see DSEIR Table 2-1). The projected quantities of herbicide application also encompass application conducted for wildfire resiliency purposes (see DSEIR Table 2-2). Additionally, the annual estimate of 1,000 acres of mowing also includes mowing performed for fuel-load reduction and other wildfire resiliency purposes. Therefore, the magnitude, frequency, and extent of vegetation management for wildfire resiliency are fully incorporated into and constrained by the Program Renewal's vegetation management limits as analyzed in the DSEIR.

Based on the information provided above and in the DSEIR, impacts of vegetation management activities conducted for wildfire resiliency would be less than significant, and no mitigation is required. No changes to the DSEIR or Appendix A (SMP Manual) are required.

**Response to Comment A-13**

The comment expresses appreciation for the opportunity to provide input and indicates the commenter's interest in continued collaboration with Valley Water on the project. The commenter's contact information is also provided.

Comment noted; no further response needed.

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# Letter B: (San Francisco Bay Regional Water Quality Control Board)

California Water Boards

Gavin Newsom
Governor

Yana Garcia
Secretary for Environmental Protection

San Francisco Bay Regional Water Quality Control Board

*Sent via electronic mail: No hard copy to follow*

September 17, 2025

Santa Clara Valley Water District
Attn: Billy Williams (bwilliams@valleywater.org)
5750 Almaden Expressway
San Jose, CA 95118

**Subject: Comments on Draft Subsequent Environmental Impact Report for Stream Maintenance Program (State Clearinghouse No. 2000102055), Santa Clara County**

Dear Billy Williams:

B-1 San Francisco Bay Water Quality Control Board (Water Board) staff have reviewed the Santa Clara Valley Water District's (Valley Water's) draft subsequent environmental impact report (SEIR) for Valley Water's Stream Maintenance Program (SMP). Valley Water has prepared the SEIR pursuant to the California Environmental Quality Act (CEQA) (SCH No. 2000102055). The SEIR is intended to be the basis of the next 10-year SMP cycle (SMP-3) planned to begin in January 2027.

B-2 With the proposed changes to the SMP, Valley Water would need to apply for a Clean Water Act section 401 water quality certification (Certification). This would be the basis for us to update and reissue the existing SMP authorization under Order No. R2-2020-0017. This letter provides feedback about the draft SEIR to facilitate Valley Water's completion of the final SEIR and to inform the development of an application for Certification.

B-3 In general, we endorse the broad changes to mitigation proposed for SMP-3 which include developing reach-scale or multi-benefit projects. However, we have some reservations about some of the details proposed in the SEIR because they could result in SMP activities being done without appropriate notifications, tracking, or mitigation, as summarized in our comments below. The SMP manual (Manual), which is included as Attachment A to the SEIR, incorporates details for SMP implementation. The revised Manual for SMP-3 has many new elements that are more detailed than the SEIR, so we plan to provide additional comments on the Manual later (though we have toggled between the SIER and Manual to some extent to develop the following comments).

Alexis Strauss Hacker, chair | Eileen M. White, executive officer

1515 Clay St., Suite 1400, Oakland, CA 94612 | www.waterboards.ca.gov/sanfranciscobay

### Comment 1. End-of-year tally of impacts and mitigation owed

B-4

A mitigation approach in the SEIR is to tally the year's impacts but not implement mitigation until the end of the year or defer mitigation to the future. We support this, on one hand, because this may help facilitate planning and budgeting for larger, multi-benefit projects. However, we recommend Valley Water expand the list provided in the mitigation and monitoring program (MMRP) (Attachment I to the SEIR). The list has good examples for this approach (e.g., Coyote Creek Reach 10b restoration), but we recommend to also include additional, smaller projects so that Valley Water would be prepared to address a variety of circumstances that result in impacts requiring mitigation from SMP activities.

While a "smaller" project may be less expensive, we recognize that a significant amount of planning needs to be invested even to identify and develop a concept plan for a small project. Nonetheless, having a list of smaller projects would help to offset the SMP impacts throughout the Program Service Area, especially in urbanized reaches where a larger project (like Coyote Creek Reach 10b) is limited due to space requirements and property ownership. To address this in the SEIR, we recommend identifying potential areas where improvements may be feasible.

On the other hand, deferring mitigation to the future would result in additional mitigation required due to temporal losses. The SEIR should be revised to address the additional mitigation requirements for temporal losses caused by deferring mitigation to a later date rather than during the period when an impact occurs.

B-5

The SEIR (pg. ES-17 and others) states "Valley Water will quantify Program impacts on biological resources, such as the acreage of impacts to wetlands and riparian habitats, sensitive communities, and special-status species' habitats, on an annual basis as work." Please note that impacts to streams need to be quantified in terms of impact *lengths*, in addition to acreage, functions, and services.

### Comment 2. Mitigation via grant program or partnerships

B-6

Valley Water is considering a mitigation approach via a local grant or partnership program that may fund a variety of project categories such as creek cleanup projects, creek restoration projects, assistance for the unhoused and associated creek encampment removal and bank improvements. This may be acceptable to the Water Board depending on the details of a project proposed under this mitigation category. We are concerned, however, that relying on other parties to perform a project that is funded by Valley Water may become cumbersome and unreliable. To address this, we recommend the SEIR to be revised to include frameworks for how a grant program would be managed and tracked.

Additionally, the SMP excludes "work performed by others" and the Water Board's Certification would not cover work performed by others except mitigation via the Santa Clara Valley Habitat Plan (VHP) in-lieu fee program (ILFP), as proposed in the SEIR, or other ILFPs. At this time the proposed approach to fund a grant program may not be acceptable for us to authorize in a Certification, but we recognize for CEQA purposes this may be acceptable.

B-6 cont.

We may be able to accept a partnership with another entity outside of an ILFP. In contrast to funding others with a grant program, partnering with another entity would still allow Valley Water to retain ownership and management of a mitigation project. This type of arrangement, such as the recent partnership between Valley Water and Trout Unlimited for removal of Pickell's dam in the Central Coast Water Board's jurisdiction of the SMP, would support SMP mitigation strategies (e.g. fish passage improvements; multi-benefit projects) that could be easily folded into Valley Water's existing proposal process and annual reporting frameworks.

This mitigation category also proposes mitigation via funding of community services, which may include "…housing, employment, vocational services, mental health and recovery programs, and other related support services for the unhoused…" (SEIR, pg. ES-19, and others). For purposes of CEQA, the SEIR should provide additional details for how this would serve as mitigation of SMP impacts. Without such details it is difficult to determine if this would be an acceptable mitigation approach to the Water Board, and as proposed currently, we would not accept this approach as mitigation in the Certification. Would it be possible for this approach to be covered under an ILFP? This could create a clear avenue for the Water Board to accept mitigation via an ILFP credit system.

### Comment 3. Removing the Modified with Ecological Value stream classification (sediment removal)

Removing the Modified with Ecological Value would transfer about 110 miles (580,800 linear feet (LF)) of streams to the Modified category in the San Francisco Water Board's jurisdiction, and an additional 11.85 miles (62,568 LF) in the Central Coast Water Board's jurisdiction. This eliminates the sediment removal limit of 300 LF for these 122 miles of stream reaches. (A limit of 300 LF is applicable to streams classified as Unmodified; and under the existing SMP applies to the Modified with Ecological Value category.) Instead, the sediment removal limit would be 5,000 LF applicable to streams classified as Modified.

B-7

Converting the Modified with Ecological Value reaches to Modified will result in increased degradation that has not been addressed adequately in the SEIR; we recommend Valley Water revise the SEIR to further evaluate this impact. The adverse impacts of sediment removal results in degradation of a stream's beneficial uses first by diminishing the system's tendency for dynamic equilibrium in sediment transport that would help the system maintain its channel form; and second by removing benthic biota in the sediment, removing vegetation which serves as wildlife habitat, and degrading other riparian services such as nutrient exchange. The beneficial uses of streams designated in the Basin Plan (pursuant to Clean Water Act and California Water Code) degraded by sediment removal include (but are not limited to): wildlife habitat, warm freshwater habitat, cold freshwater habitat, and non-contact recreational use.

It is unclear if the impact of removing up to 5,000 LF per project in a Modified stream has ever been evaluated pursuant to CEQA. Please clarify the inception of, and basis for, the limit of 5,000 linear feet for sediment removal in streams classified as Modified. Was this limit developed in an earlier CEQA review for the SMP (which consist of the original EIR certified in 2002, and a subsequent EIR in 2012)? This SEIR should at

least evaluate the "new" impact to the additional 122 miles of streams, and should provide context, ideally from previous CEQA reviews, for how the limit was developed for Modified streams.

Beginning in 2014 with SMP-2, the mitigation ratio for impacts of sediment removal was a range of 1:1 to 1.3:1 based on the mitigation type. In the mid-cycle SMP renewal of 2020, the mitigation ratio for sediment removal was modified from a range of 1:1 to 1.3:1, to 1:1 without a range. The proposed SMP-3 ratio for mitigation of sediment removal remains 1:1. We recommend reverting the mitigation ratio back to the amounts in SMP-2 for a range of 1:1 to 1.3:1 depending on the mitigation type, or to increase the ratio to 1.2:1, or greater. This would account for about two years for a system to recover from sediment removal and helps to account for the temporal loss of vegetation removed along with the sediment, while a ratio of 1:1 does not appropriately address degradation to the system. This should be further evaluated in the SEIR.

B-7 cont.

Finally, we propose a new limit of 1,500 LF for sediment removal in Modified streams to help minimize this impact, as is in the Napa Flood Control District SMP. This proposal should be evaluated in the SEIR along with the points raised above in this comment.

### Comment 4. Mitigation via recovery of post-wildfire recovery and other potential vegetation management actions affecting canopy cover

As proposed, mitigation via post-wildfire recovery may include removal of vegetation. The State Water Resources Control Board (State Board) has developed a general order for wildfire recovery (Order No. WQ 2023-0055-DWQ) (general order) certifying the U.S. Army Corps Regional General Permit 10. The general order does not authorize removal of vegetation, and we would not likely authorize vegetation removal with Certification of SMP-3 for this mitigation approach. We recommend the SEIR be revised to address a more nuanced approach for fire-impacted site recovery using the State Board's general order as a model.

B-8

Another model we recommend to be evaluated in the SEIR is the general BMP for retention of canopy cover (BMP 3(f)) in the Statewide Fuels Reduction Environmental Protection Plan (EPP) developed by the California Natural Resources Agency and California Environmental Protection Agency to fulfill Governor Newsom's State of Emergency Proclamation signed on March 1, 2025, to expedite fuels reduction projects that reduce severe risks of catastrophic wildfire. EPP's general BMP 3(f) includes retaining at least 75 percent of the overstory and 50 percent of the understory canopy of native riparian vegetation within 100 feet of perennial streams and 50 feet of intermittent streams; and treatments should target overgrown vegetation outside the riparian zone.

We recommend the EPP canopy cover metrics also be applied to the Vegetation Management maintenance activity in the Manual. The existing and proposed approach is to limit vegetation removal to no more than 20 percent of the canopy cover in any reach. Using a "reach" is relative since a reach length or area varies. The EPP example limits the canopy cover effects to "within 100 feet of perennial stream" and "50 feet of

B-8 cont. intermittent streams". Similarly, other SMPs in the Water Board's jurisdiction limit a canopy cover impact to 100 LF. We recommend the SEIR be revised to incorporate such metrics for vegetation management activities.

Comment 5. Mitigation and Monitoring Program (Attachment I)

B-9 We do not concur with details of Impact Significance Criterion BIO-3-*Augmentation of Spawning Gravel* (BIO-3) for the following issues. As proposed, BIO-3 impacts would be based partially on whether there is suitable flow at the site where spawning gravel would be removed. Removal of spawning gravel is a significant impact regardless of the flow conditions, because this resource would be depleted from the system and a stream's beneficial uses that are assigned to a stream pursuant to the Basin Plan, would be degraded, including fish spawning habitat (SPWN), protection of rare and endangered species (RARE), cold freshwater habitat (COLD), and warm freshwater habitat (WARM). This flow caveat to spawning gravel impacts should be removed from impact BIO-3 and BIO-3 should be reevaluated in the SEIR, accordingly.

Also, the size metric of 100 ft2 or 10 square meters (which is 107 ft2) should be removed from BIO-3. The impact of removing spawning gravel should be based on the actual area and volume; as noted above, removing spawning gravel depletes this resource from the system and adversely impacts a stream's beneficial uses for SPWN, RARE, COLD, and WARM. The area threshold should be removed from BIO-3, and the SEIR should be revised to evaluate BIO-3 without a size threshold for spawning gravel removal.

Comment 6. SMP manual, Table 10-1-*Summary of Proposed SMP-3 Mitigation Ratios*

B-10 The SMP manual (Manual) is included as Attachment A to the SEIR. The Manual incorporates details for implementing the SMP, and it would be part of a Certification for SMP activities. We have the following comments on **Table 10-1** in the Manual, and we plan to continue reviewing the Manual to provide additional comments after this SEIR review.

B-11 6.1 Column 4-*Mitigation Options*. This section proposes to allow "Reach characterization sheets" as a mitigation option. We support the use of reach characterization sheets for maintenance planning. For purposes of issuing a Certification we would not authorize the use of reach characterization sheets for mitigation of unavoidable impacts resulting in loss or degradation to jurisdictional waters of the State.

B-12 6.2 Column 3-*Notes*. This section indicates that removal of vegetation of less than 6 inches diameter at breast height (DBH) or less (<6" dbh) has a mitigation ratio of 1:1 but proposes: "A lower mitigation ratio should be applied where resprouting occurs within 1 year and full functions and values return within 2 years." We disagree with this and would not approve a ratio less than 1:1 for purposes of issuing a Certification. Under other permits with vegetation removal outside of the SMP, we typically require a minimum of 1.1:1 to account for temporal loss of the vegetation removal. For SMP-3, a mitigation ratio of at least 1:1 should be retained and the note stating otherwise should be deleted.

B-13

6.3 Column 3-*Notes*. This section states, "The removal of invasive trees and certain hazard trees (e.g., diseased ones) that provides an ecological benefit does not require mitigation." We would not authorize this for issuance of a Certification for SMP-3 because such vegetation is part of the stream's ecosystem. We recommend the SEIR provide additional evaluation to address this impact.

B-14

6.4 Removal of Non-Invasive Trees >6" DBH. This category of SMP-3 maintenance should be further evaluated in the SEIR and the table should be revised to address the following issues:

a. The proposed ratio is 1:1 for this maintenance category. We would not support a default ratio of 1:1 across all tree removal scenarios for >6" DBH trees, because it does not mitigate for temporal loss of a removed tree while a replacement tree matures. The existing ratios in the SMP-2.5 Manual for tree removals of 6" to 12" DBH are up to 3:1 and we recommend these existing ratios be retained. For removal of a tree with dbh >12"—which would be a new category of SMP maintenance activities—removal of the tree should be evaluated holistically and mitigation provided based on case-specific conditions to determine appropriate mitigation.

b. Under this category, removal of a native tree species and a non-native, non-invasive species are treated the same, though a greater ratio may be required for a native species than for a non-native for purposes of issuing a Certification.

c. We do not agree with footnote 5 in Table 10-1, which states: "If the tree is determined to provide unique functions and values, removal of the tree will be mitigated at a 1:1 ratio." This is redundant with the proposed ratio of 1:1 stated already in the table so the purpose of this footnote is unclear. Also, "unique" is not defined in the manual. "Unique" suggests to us that this may be applicable to highly valuable trees such as native, non-hybridized sycamores, which should be evaluated on a case by case basis and likely warrants a high mitigation ratio of at least 3:1 as in the existing SMP-2.5 manual. We recommend removing this footnote from Table 10-1.

B-15

6.5 Asterisk for Tree Removal >6" DBH (Column 2, Line 1). The proposed mitigation ratio of tree removal in this category is 1:1 as noted above in Comment 6.3. This proposed mitigation has an asterisk for the footnote in the table which indicates: "Unless covered by the VHP plan" (VHP is the Santa Clara Valley Habitat Plan). This would not meet the Water Board's requirements because we have not authorized the VHP, and this would result in tree removal without mitigation of impacts to beneficial uses of jurisdictional State waters. This footnote should be removed and the SEIR should be revised to incorporate mitigation for removal of trees with >6" DBH that would meet the Water Board's requirements pursuant to the Basin Plan. Please note that payment of VHP fees should not be proposed

B-15 cont.

first before evaluating how mitigation of tree removal would meet the Water Board's requirements for mitigating impacts to a stream's beneficial uses.

B-16

6.6 Temporary impacts to wetlands. The existing and proposed mitigation ratio of this impact is 0:1 (i.e., no mitigation required) because there is an assumption that the wetland vegetation naturally recovers by year 2. A default ratio should be 1.2:1 to account for temporal loss while the wetland recovers.

Also, footnote 1 indicates a ratio of 0:1 is "self-mitigating". We understand that for database tracking purposes, input of 0:1 translates to no mitigation required; but in this case, the temporal degradation of a wetland is not self-mitigating. We recommend changing the ratio to 1.2:1 and deleting footnote 1 for purposes of issuing a Certification.

B-17

6.7 Sediment removal. This category **incorrectly** indicates that mitigation (bold italicized font added for emphasis) "…applies to a non-PMA ***or earthen channel bottoms***" (i.e., PMA is a previously mitigated area). This is incorrect and the Water Board would not authorize this for purposes of issuing a Certification. **Please correct this error. Specifically, mitigation requirements are applicable to any stream including those with a non-earthen bottom.**

This error was corrected during the SMP-2.5 Manual revision process in the text of the Manual, but the error did not get corrected in the associated SMP-2.5 table and Valley Water has not issued an erratum sheet to correct the error in the table. The SMP-3 Manual revision is the opportunity to correct this error. (We recognize that some stream reaches have been previously mitigated through the SMP-1 land preservation mitigation program, and we do not take issue with that part of this note in Table 10-1.) See also Comment 3 above pertaining to sediment removal impacts in Modified streams.

B-18

6.8 Large woody debris removal in salmonid creeks. Additional details are needed in the SEIR and the Manual to cover the following additional impacts of removing large wood (referred to as large woody debris (LWD)) from a steam: (1) LWD removed from a salmonid stream above the ordinary high water mark; (2) LWD removed from a non-salmonid stream from below or above the OHWM; (3) LWD removed from a salmonid stream upstream of the limit of anadromy; (4) removal of a root wad or other wood based on complexity and stream functions the wood provides, even if it does not meet the definition of "LWD" (which is defined in the SMP as being at least 6 feet long and 12" diameter, and being in a salmonid stream, and being below OHWM).

B-19

Comment 7. Chinook salmon in Guadalupe River

DNA analysis of salmonid bones in archeological remains along Guadalupe River revealed Chinook salmon was traditionally in this watershed. To address this, we recommend you add the following reference to the list of resources for biological conditions in the SEIR, Table 3.4.1-*Selected Valley Water Fisheries Studies:* Lanman RB, Hylkema L, Boone CM, Allée B, Castillo RO, Moreno SA, Flores MF, DeSilva U,

B-19 cont.

Bingham B, Kemp BM, 2001. *Ancient DNA analysis of archaeological specimens extends Chinook salmon's known historic range to San Francisco Bay's tributaries and southernmost watershed*. PLoS One. 2021 Apr 15;16(4):e0244470. doi: 10.1371/journal.pone.0244470. PMID: 33857143; PMCID: PMC8049268.

B-20

### Comment 8. Work window extension requests

Best management practice (BMP) GEN-1 (Attachment A to Manual (which is Attachment A to the SEIR) addresses the process for requesting a work window extension to perform work after October 15. While we recognize in some cases a project may need to extend beyond October 15 if there is a risk to public safety, property, or infrastructure, we discourage Valley Water to rely on work window extensions for project planning and scheduling. We do not support extensions to initiate a previously approved project after October 15. We recommend removing this element from BMP GEN-1. On a case-by-case basis we are open to considering approval of starting a project after October 15, such as during extreme drought conditions, but this should not be included in the standard BMPs for routine maintenance.

B-21

### Conclusion

Because the SMP-3 Manual would institute changes to Valley Water's program, we plan to provide additional comments on the Manual as soon as possible. This is important because the Manual has many details that are not covered in the SEIR.

B-22

We look forward to receiving your responses to our comments, and to continuing to work with you on the SMP. If you have any questions please contact Susan Glendening by email at susan.glendening@waterboards.ca.gov or phone at (510) 622-2462, or me by email at elizabeth.morrison@waterboards.ca.gov or phone at (510) 622-2330.

Sincerely,

E. Morrison

Digitally signed by Elizabeth Morrison
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**Response to Comment B-1**

The comment states that San Francisco Bay Water Quality Control Board (SFRWQCB) staff have reviewed the DSEIR and summarizes the purpose of Valley Water's preparation of the DSEIR.

Comment noted; no further response needed.

**Response to Comment B-2**

The comment states that the changes proposed for the Stream Maintenance Program (SMP) will be the basis for the update and reissuance of the existing SMP authorization under Order No. R2-2020-0017. The comment further states that the SFRWQCB letter provides feedback on the DSEIR to inform Valley Water's development of the Final Subsequent Environmental Impact Report (FSEIR) and application for a water quality certification under the Clean Water Act.

Comment noted; no further response needed.

**Response to Comment B-3**

The comment expresses general endorsement for the changes to mitigation proposed for the Program Renewal; however, the commenter cites concerns over details in the DSEIR regarding appropriate notifications, tracking, and mitigation, which are further summarized in the comment letter. The comment also states that additional comments on the SMP Manual will be provided later.

Responses are provided below to Comments B-4 through B-21. It has been noted that additional comments from SFRWQCB staff on the SMP Manual may be provided later. Valley Water will follow up with the commenter during the permit development process to discuss any further comments on the SMP Manual.

**Response to Comment B-4**

The comment expresses support for the proposed mitigation approach of tallying the year's impacts but not implementing mitigation until the end of the year or deferring mitigation to the future; the comment states that this approach may help facilitate planning and budgeting for larger, multi-benefit mitigation projects. However, the comment suggests that the list of mitigation approaches in the Mitigation Monitoring Reporting Program (MMRP) should be expanded to include smaller projects. Also, the comment recommends that the DSEIR identity potential areas where improvements may be feasible. The comment also suggests that the DSEIR should be revised to address mitigation requirements for temporal losses when mitigation will be deferred to a later date rather than when an impact occurs.

Valley Water would like to clarify that, based on its analysis, the proposed mitigation for the Program Renewal is not improperly deferred. Formulation of mitigation measures may not be improperly deferred until some future time (CEQA Guidelines §15126.4(a)(1)(B)), and the DSEIR is consistent with this requirement. However, design details for some mitigation activities can be, and will be, determined later in the development and implementation process when more information is available, consistent with CEQA Guidelines §15126.4(a)(1)(B).

In fact, Valley Water is already planning and implementing mitigation projects in anticipation of SMP mitigation needs during the Program Renewal time frame. One such example is the Pickell's Dam Removal Project, which has already been completed as advance mitigation for potential Program Renewal impacts. Removal of Pickell's Dam will function as mitigation for the Program Renewal's impacts to steelhead, waters of the U.S./waters of the state, and other instream beneficial uses in the

Pajaro River watershed. Details on the Pickell's Dam Removal project can be found in Attachment A (SMP Manual), Chapter 10.

Smaller projects are also proposed for the Program Renewal mitigation, including concrete removal, trash removal, and some bank stabilization projects where soft or hybrid methods will be used. Due to the broad geographic extent of the Program Renewal Area and the dynamic nature of these systems, however, it is not practical for Valley Water to develop a comprehensive list of areas where these smaller mitigation projects may be feasible. Instead, specific smaller mitigation projects will be developed as they are identified during Program Renewal implementation.

Some opportunities may become apparent during the course of identifying specific maintenance project needs. For example, bank repair is one of Valley Water's major impact categories and soft or hybrid bank repair methods can be self-mitigating and beneficial to the stream channel. One such bank stabilization technique, contour wattling, is generally used to manage surface erosion and provides excellent revegetation potential. Contour wattling consists of tying long bundles of plant stems (typically willows or cottonwoods) together with twine and anchoring them in shallow trenches with wooden stakes or cuttings. When the stems develop root systems and mature, the plants establish structural soil stabilization properties. Attachment D: *Bank Stabilization Methods* in the SMP Manual (Attachment A of the DSEIR) provides more detail on contour wattling. For additional information and examples regarding smaller projects that might be used for mitigation, see Attachment A (SMP Manual) Chapter 10, Section 10.5.2.

The commenter asserts that deferring mitigation to the future would result in additional mitigation being required due to temporal losses. As stated in Chapter 10 of the SMP Manual (Appendix A of the DSEIR), Valley Water will implement temporary mitigation where appropriate. This includes compensatory mitigation required under permits from regulatory agencies (e.g., USACE, San Francisco Bay and Central Coast RWQCBs, CDFW) and in accordance with CEQA mitigation requirements identified in the DSEIR for temporary and/or permanent impacts (e.g., on wetlands and waters of the U.S./state and habitat supporting federally listed and state-listed species). Example activities that may require compensatory mitigation to address temporary and temporal impacts include sediment removal, bank stabilization, herbicide application, removal of large woody debris, removal of vegetation <6" dbh below the ordinary high water mark (OHWM), and removal of trees >6" dbh. Temporary mitigation opportunities under the Program Renewal include actions such as trash removal, encampment cleanup, post-wildfire recovery, and grants for local watershed groups. Please see Chapter 10 of the SMP Manual for additional details regarding temporary mitigation. No changes to the DSEIR or Appendix A (SMP Manual) are required.

**Response to Comment B-5**

The comment states that impacts to streams need to be quantified in terms of *length*, in addition to acreage, functions, and services. Valley Water utilizes stream stationing to describe the location and extent of activities for each Program Renewal project during the annual reporting. Stationing provides a continuous linear reference along each stream segment, which allows the length of stream where specific maintenance activities occur to be clearly identified and quantified. As such, impact extents can be documented through stationing data and can be reported in linear feet or miles, as appropriate. In the DSEIR, however, impacts to streams were calculated using acreages. Acreages are used to quantify accomplishments for Valley Water's operations and maintenance activities. Some maintenance activities occur in a location where it is more practical to quantify acreage than length. Acreages have been the more heavily used metric for quantification of impacts during implementation of the current program,

and continuing to rely more heavily on acreage for quantification of impacts is consistent with current program implementation practices. Quantifying impacts on streams in terms of stream lengths is not necessary for adequate DSEIR impact analysis under CEQA but can be further addressed with the SFRWQCB during the permitting process. No changes to the DSEIR or Appendix A (SMP Manual) are required.

**Response to Comment B-6**

The commenter requests that Valley Water include a framework in the DSEIR describing how a grant program would be managed and tracked if implemented as a mitigation approach. The commenter notes that funding a grant program may not be an acceptable form of mitigation for inclusion in a water quality certification, except through the Santa Clara Valley Habitat Plan (VHP) in-lieu fee program (ILFP), although it may be acceptable under CEQA. The commenter states that the SFRWQCB may be able to accept a partnership with another entity outside an ILFP. The commenter further requests additional detail on how funding community services would function as mitigation for Program Renewal impacts and asks whether this approach could be implemented under an ILFP to facilitate approval by the SFRWQCB.

Valley Water will retain the option to provide a grant program and partnerships as a part of the Program Renewal mitigation strategy to ensure continued efforts to collaborate with local organizations throughout Santa Clara County. More specifically, Valley Water may pursue opportunities to work with local Native American tribes on various restoration projects when feasible. There may be cases in which certain projects do not meet the mitigation needs of every resource agency that issues permits for Program Renewal work, although the grant program itself meets requirements for mitigation measures under CEQA. However, such a grant program would not be the sole method by which Valley Water addresses the mitigation needs for its SMP, but rather an important component within the overall mitigation portfolio that can provide a diverse range of project types not typically available to Valley Water.

The grant program to support watershed health and ecologic enhancement, restoration, and conservation projects within Valley Water watersheds is envisioned to operate as follows. Valley Water would conduct outreach to a broad range of stakeholders that initiate, plan, and implement such projects within Valley Water watersheds. Valley Water would provide guidance to help stakeholders determine if their planned projects may be candidates for the grant program. Valley Water would issue a call for projects and then evaluate and prioritize the proposed projects whose functions and benefits would most align to address potential impacts associated with the Program Renewal. In this way, Valley Water would use watershed health and restoration projects directly occurring in Program Renewal watersheds to mitigate potential impacts and improve the functions and values of streams and watersheds where Program Renewal activities occur.

Some details specific to SFRWQCB permitting processes, such as whether an ILFP is needed as a mechanism for facilitating the process of mitigation through a grants program, are not necessary for an adequate CEQA analysis of Program Renewal impacts, and will best be addressed during the SFRWQCB permitting process. No changes to the DSEIR or Appendix A (SMP Manual) are required.

**Response to Comment B-7**

The comment states that removing the “Modified with Ecological Value” category would reclassify about 122 miles of streams as “Modified,” eliminating the current 300-foot sediment removal limit and increasing it to 5,000 feet for those stream reaches. The comment further states that reclassifying

"Modified with Ecological Value" reaches to "Modified" would increase stream degradation that is not adequately addressed in the DSEIR. The comment expresses concern that sediment removal degrades beneficial uses of streams (e.g., habitat, recreation) by disrupting sediment balance, removing benthic biota and vegetation, and impacting riparian functions. The commenter also requests clarification on the origin and basis for the 5,000-linear-foot sediment removal limit in Modified streams and whether it was evaluated in a prior EIR, and recommends that the DSEIR evaluates the new impacts associated with the additional 122 miles of reclassified streams. The commenter also recommends increasing the sediment removal mitigation ratio from 1:1 to 1.2:1 or a range of 1:1–1.3:1, consistent with prior SMP versions, to adequately address temporal loss and system recovery. Finally, the commenter suggests adopting a lower sediment removal limit of 1,500 linear feet for Modified streams, similar to the Napa Flood Control District SMP.

Over the past 20 years, Valley Water has conducted relatively little work in stream channels classified as "Modified with Ecological Value." In fact, the category "Modified with Ecologic Value" was developed only during SMP-2 and was not part of the initial development of the Program in 2001 or at any time during the 10-year SMP-1 period. Regardless, the trend for Valley Water not to conduct much maintenance work in such channels is expected to continue for the Program Renewal. Each year, the Notice of Proposed Work (NPW) is submitted to the SFRWQCB for review and approval of individual sediment removal projects. While the DSEIR includes projected sediment removal quantities, these represent conservative projections (which typically have been overestimates); they do not reflect the actual amount of work typically conducted by Valley Water and/or expected to be conducted under the Program Renewal.

For example, based on Valley Water's review of SMP-2 completed sediment removal data from 2014 through 2024, the median length of sediment removal items during SMP-2 was 784 linear feet. A few of the sediment removal items on Canoas Creek in the early part of SMP-2 were reported as the entire creek (39,000 linear feet); however, that was an overrepresentation of the actual work, which was scattered in very small patches of removal along the entire reach after winter flows rather than continuous work along the entire creek. While the total length of actual work was well below the limit during SMP-2, these early reporting methods skew the dataset toward an artificially high mean. Accordingly, the median value provides a more accurate representation of typical sediment removal activity. The median length of 784 linear feet demonstrates that Valley Water rarely approaches the upper 5,000-foot limit for sediment removal.

During SMP-2, sediment removal occurred in both Modified and Modified with Ecological Value stream reaches, with much less work occurring in Modified with Ecological Value channels; approximately 14% of sediment removal work occurred in those channels. Sediment removal is planned based on site-specific needs for flow conveyance and community protection rather than channel classification, and no change in the locations of work is anticipated to result from the change in nomenclature.

There are no new impacts required for CEQA evaluation for the additional 122 miles of streams referenced in the comment because these streams were analyzed with the length limits described for Modified channels in the DSEIR. Please refer to DSEIR Table 2-6 (page 2-33) for a summary of the Program Renewal projected impacts as well as the projected and actual impacts of the prior iterations of the SMP. Because the DSEIR has already analyzed the impacts of work without the "Modified with Ecological Value" category, no revisions to the DSEIR for this category are warranted. Further, imposing a highly restrictive length limit for Modified streams could require larger sediment removal projects to

be phased over multiple seasons, resulting in a larger number of construction and dewatering events and potentially greater cumulative environmental impacts.

The 5,000-linear-foot limit for sediment removal in Modified channels was analyzed in the Program Renewal DSEIR, and this limit is considered appropriate to capture the scale of most sediment removal activities that Valley Water would need to conduct in Modified channels during the course of the Program Renewal. While the median project length in the current iteration of the SMP, as described above, is 784 linear feet, there is a range of possible project lengths and the 5,000-linear-foot limit is needed to capture those at the higher end of this range.

Although the DSEIR's mitigation ratio is adequate under CEQA, Valley Water accepts the commenter's recommendation to increase the sediment removal mitigation ratio from 1:1 to 1.2:1 to be consistent with prior SMP versions and address temporal loss and system recovery. This change has been made in Table 10-1 in Appendix A (SMP Manual) of the FEIR on page 10-10 and is also shown below.

**TABLE 10-1**
**Summary of Proposed SMP-3 Mitigation Ratios**

| Impact Type | Proposed Mitigation Ratio[1] | Notes | Mitigation Options[6] | SMP Permanently Mitigated Areas (PMA) Established? | VHP Covered Activity (VHP Impact Fee Required or ILF?)[2] |
|---|---|---|---|---|---|
| Sediment Removal[8] | ~~1:1~~ 1.2:1 | Proposed mitigation ratio applies to non-PMA or earthen channel bottom | Revegetation, encampment cleanup, trash and debris removal, ~~reach characterization sheets,~~ post-wildfire recovery, grant program for local watershed groups | Yes[3] | Yes |

Land use, hydrologic and hydraulic conditions, stream conditions, and site-specific flood risks in Santa Clara County differ substantially from those in Napa County. As such, the Napa Flood Control District SMP is not an appropriate reference model for Valley Water's SMP. The settings and needs of the two programs are very different. Stream channels managed under Valley Water's SMP are generally in densely urban environments with higher flood risks associated with the built environment. The areas covered by the Napa County SMP have a higher tolerance for instream sediment. Santa Clara County includes much more heavily urbanized areas than Napa County does, which can necessitate different maintenance regimes. The type and extent of maintenance required to appropriately maintain flood protection projects varies from project to project, and the flood protection projects in Santa Clara County, generally located in densely urban environments, may have different maintenance needs from flood protection projects in Napa County.

**Response to Comment B-8**

The comment recommends that the DSEIR discussion of post-wildfire recovery mitigation be revised to align with the State Water Resources Control Board's *General Order for Wildfire Recovery* (Order No. WQ 2023-0055-DWQ), which does not authorize vegetation removal. It states that SFRWQCB would likely not authorize vegetation removal in its Program Renewal water quality certification. It also suggests evaluating the *Statewide Fuels Reduction Environmental Protection Plan* (EPP) canopy cover BMP as a model and applying similar canopy retention metrics to vegetation management activities for consistency with SMPs in SFRWQCB's jurisdiction.

Valley Water appreciates the recommendation to consider EPP BMP 3(f) for canopy retention. Valley Water will implement the recommended retention of at least 75% of the overstory and 50% of the understory canopy of native vegetation during vegetation management activities. However, existing limits in the DSEIR and the SMP Manual—such as restricting canopy removal to no more than 20% per reach—already provide clear guidance for protecting riparian and upland vegetation. This existing 20% limit on canopy removal is already stricter environmental protection than the comparable EPP restriction. The EPP does not have reach definitions as specifically developed as those the SMP maintenance guidelines provide. While this may require the EPP to have its own reach definition, Valley Water's SMP already has detailed definitions of reaches in the maintenance guidelines and therefore does not need to rely on the EPP's definition.

Because the existing SMP restriction is stricter than the EPP restriction for overstory canopy, there is no include the retention metric of at least 50% of the understory of native vegetation during vegetation management activities. These changes are shown on pages ES-14, 2-39, 3.2-10, 3.2-13, 3.4-147, and 3.4-159 of the FEIR and pages 4-25 and 4-26 of Appendix A (SMP Manual) in Volume II of this FSEIR and described below.

While the post-wildfire recovery mitigation projects may identify critical safety hazards (dead or dying trees) the details of how the SFRWQCB authorizes post-wildfire recovery projects in the Program Renewal water quality certification may be discussed further as part of the permitting process with SFRWQCB. In some cases, these trees may require removal due to threat to human health and safety. Post wildfire recovery is a mitigation action that would be proposed by Valley Water for approval by the resource agencies. This will create an opportunity for SFRWQCB to review each proposed post- wildfire recovery mitigation, including any associated vegetation management, to determine whether the mitigation project is approved.

> **FEIR Pages ES-14, 2-39:** In an effort to minimize impacts resulting from maintenance activities, the Program Renewal includes the following limits:
>
> - Coppicing would be limited such that no more than 20 percent <u>overstory</u> canopy removal is allowed in any stream reach, <u>and at least 50 percent of the understory canopy of native vegetation would be retained</u>.
>
> - Removal of nonhazard trees 6-12 inches diameter at breast height (dbh) would be limited to 2,000 live trees between 2027 and 2036. On an annual basis, this work would be limited to 400 live tree removals per year. For each project, the Program Renewal would allow no more than 20 percent <u>overstory</u> canopy removal in any reach, <u>and at least 50 percent of the understory canopy of native vegetation would be retained</u>.

- Removal of nonhazard trees greater than 12 inches dbh would be limited to 150 live trees between 2027-2036. On an annual basis, this work would be limited to 20 live tree removals per year. For each project, no more than 20 percent overstory canopy removal would be allowed in any reach, and at least 50 percent of the understory canopy of native vegetation would be retained. Removal of trees greater than 12 inches dbh is a new activity under the Program Renewal that was not included in SMP-2.

**FEIR Page 3.2-10:** Although mature, healthy trees may be removed under the Program Renewal, no more than 20 percent of the overstory canopy would be removed in any reach, and at least 50 percent of the understory canopy of native vegetation would be retained.

**FEIR Page 3.2-13:** Additionally, no more than 20 percent of the overstory ~~tree~~ canopy would be removed in any reach, and at least 50 percent of the understory canopy of native vegetation would be retained.

**FEIR Page 3.4-147:** However, per-project limits of no more than 20 percent overstory canopy removal in any reach, are unlikely to cause substantial increases in stream temperatures.

**FEIR Page 3.4-159:** Similar to the impacts to steelhead, per-project limits of no more than 20 percent overstory canopy removal in any reach are unlikely to cause substantial increases in stream temperatures; however, a reduction in instream wood would reduce the amount of instream cover for Pacific lamprey.

**Appendix A Page 4-25:** Coppicing will not have limits on its geographic extent because the activity is not widespread and provides an ecological benefit. No more than 20 percent overstory canopy removal will be allowed in any reach, and at least 50 percent of the understory canopy of native vegetation would be retained. Canopy removal is visually assessed based on the pre-maintenance condition.

**Appendix A Page 4-26:**

For removal of non-hazard trees 6-12 inches dbh, the following limits will apply:

| | |
|---|---|
| 10-year Program Limit: | 2,000 live trees |
| Annual Limit: | 20 percent of 10-year limit (Up to 400 live trees) |
| Per-Project Limit: | No more than 20 percent overstory canopy removal in any reach, retention of at least 50 percent of the understory canopy of native vegetation |
| Other: | Tree removal that is necessary based on MGs or other triggers may exceed the annual and Program tree limits and will be subject to agency approval. |

For removal of non-hazard trees > 12 inches dbh, the following limits will apply:

| | |
|---|---|
| 10-year Program Limit: | 150 live trees |
| Annual Limit: | Up to 20 live trees per year |
| Per-Project Limit: | No more than 20 percent overstory canopy removal in any reach, retention of at least 50 percent of the understory canopy of native vegetation |
| Other: | Tree removal that is necessary based on MGs or other triggers may exceed the annual and Program tree limits and notifications will be subject to agency approval. |

**Response to Comment B-9**

The comment expresses concern over details included under Impact BIO-3-Augmentation of Spawning Gravel, Mitigation Measure BIO-3, in the DSEIR because mitigation would be based partially on whether there is suitable flow at the site. The comment states that removal of spawning gravel is a significant impact regardless of the flow conditions because this resource would be depleted from the system and a stream's beneficial uses that are assigned to a stream pursuant to the Basin Plan would be degraded. The comment also states that the area metric should be removed from Mitigation Measure BIO-3 and the impact should be based on the actual area and volume.

The criterion for "high-quality gravel" under Mitigation Measure BIO-3 remains consistent with the criterion used under SMP-2, which was developed in coordination with the National Marine Fisheries Service (NMFS) and Valley Water's fisheries biologists. To be considered "high quality," spawning gravel needs to be accessible to the given species during the appropriate life stage. Insufficient water depth or flow velocity would prevent anadromous fish from accessing and utilizing these areas; therefore, spawning would not occur and gravel at that site would not be considered "high quality." Valley Water acknowledges that gravel contributes to the stream system; however, the objectives for sediment removal in the Program Renewal include removing sediment for channel capacity to alleviate or reduce flooding, remove mercury-laden or other contaminated soils, ensure proper function of instream structures (i.e., stream gauge, fish ladder, outfalls, tide gates), and improve conditions for anadromous fish migration and passage. Additionally, as described in the DSEIR, mitigation activities such as gravel augmentation (Mitigation Measure BIO-3) could also result in direct and indirect impacts to steelhead during installation; however, the net effect of the measure on salmonids would be beneficial.

The mitigation ratio of 1:1 (mitigation to impact) is based on area (square footage or acreage) and not volume because the depth of spawning gravel that would be augmented at a given site is dependent upon the specific conditions at that site. Gravel must be of a minimum depth to provide optimal spawning function. However, augmenting gravel below that depth, which would increase the total volume, does not provide any immediate additional spawning function because it is too deeply buried for fish to access. Steelhead and other salmonids generally deposit eggs in an egg pocket below the surface of gravel. Depth of this egg pocket is extremely variable, but one review of egg pocket depths suggested that 15 centimeters (cm) could be used as the maximum depth of the top of steelhead egg pockets and 25 cm as the maximum depth for the bottom of steelhead egg pockets (DeVries 1997). Because gravel volume may include gravel substantially below the depth at which salmonids bury eggs,

volume is not the best metric to evaluate fish habitat function of gravel. Instead, area is the preferred metric because the ability for fish to use a site for spawning is more dependent on the areal size of the gravel bar and advantageous flow conditions than on the overall volume of gravel, assuming there is adequate depth of gravel for habitat function. The volume of replacement gravel for a given augmentation site is typically based on recommendations provided by Valley Water's qualified fisheries biologists.

Based on the above information, Mitigation Measure BIO-3 as described in the DSEIR is sufficient to reduce impacts of spawning gravel removal to a less-than-significant level, and no changes to the DSEIR or Appendix A (SMP Manual) are required.

**Response to Comment B-10**

The comment references the SMP Manual that is included as Attachment A to the DSEIR and states that the SMP Manual would be a part of a water quality certification from the SFRWQCB for Program Renewal activities. The comment also states that the SFRWQCB is providing comments on Table 10-1 of the SMP Manual (further discussed in comments and comment responses below) and plans to provide additional comments after the DSEIR review.

Comment noted. See Responses to Comments B-11 through B-18 regarding Table 10-1. Valley Water will follow up with the commenter during the permit development process to discuss any further comments on the SMP Manual.

**Response to Comment B-11**

The comment references Column 4, "Mitigation Options," of Table 10-1 in the SMP Manual and expresses support for using reach characterization sheets to inform maintenance planning. However, it clarifies that, for purposes of issuing a 401 water quality certification, the SFRWQCB would not authorize the use of reach characterization sheets as mitigation for unavoidable impacts that result in the loss or degradation of jurisdictional waters of the state.

Table 10-1 has been updated to remove reach characterization sheets as a mitigation option. Valley Water may still elect to prepare reach characterization sheets but would use them as a planning tool to help determine whether mitigation is needed.

Text describing reach characterization sheets has been moved from "Additional Mitigation Options" on DSEIR pages E-20 and 2-47 to pages ES-18 and 2-44 in "Program Renewal Mitigation Approach." The text describing stream reach characterization sheets in Section 10.6.7, "Stream Reach Characterization Sheets," on pages 10-38 and 10-39 has now been moved to Section 10.5, "SMP-3 Mitigation Approach," on pages 10-19 and 10-20 as "Stream Reach Characterization Sheets." Text describing the use of reach characterization as a mitigation option has been deleted from page 10-5. As described above, reach characterization sheets as a mitigation option has been removed from the "Mitigation Options" column in Table 10-1 of the SMP Manual on pages 10-7 through 10-10 (see Table 10-1 in Appendix A [SMP Manual]) of the DSEIR for ~~strikethrough~~ the four locations where the text was removed).

**FEIR Pages ES-20 and 2-47:**

~~**Reach Characterizations.** To address impacts on the riparian corridor, Valley Water may develop reach characterization sheets for areas where frequent maintenance activities are projected to occur in the next 10-year Program Renewal periods. These characterization sheets would be utilized to describe biological resources, water quality conditions, and overall ecological function within a channel reach; ongoing and future maintenance needs; and whether potential~~

~~restoration opportunities exist within a reach. The characterization sheets may also be used to identify and map large trees with high importance and ecological value and describe potential opportunities for enhancing these trees. Reach characterizations could include descriptions of methods for maintaining individual reaches in a manner that has a neutral or positive effect on the reach's habitat function, therefore avoiding a need for separate compensatory mitigation.~~

**FEIR Pages ES-18 and 2-44:**

To address impacts on the riparian corridor, Valley Water may develop reach characterization sheets for areas where frequent maintenance activities are projected to occur in the next 10-year Program Renewal periods. These characterization sheets would be utilized to describe biological resources, water quality conditions, and overall ecological function within a channel reach; ongoing and future maintenance needs; and whether potential restoration opportunities exist within a reach. The characterization sheets may also be used to identify and map large trees with high importance and ecological value and describe potential opportunities for enhancing these trees. Reach characterizations could include descriptions of methods for maintaining individual reaches in a manner that has a neutral or positive effect on the reach's habitat function and could be used as a mitigation planning tool to identify potential mitigation opportunities within the reaches and potentially avoiding a need for separate compensatory mitigation.

**Appendix A (SMP Manual), page 10-5:**

~~Lastly, work that is conducted to support ecological health and function as described in a reach characterization and may improve the site's function as habitat for sensitive species may also be exempt from mitigation requirements when approved by the regulatory agencies (see Section 10.6.7 and Section 10.5.3).~~

**Appendix A (SMP Manual), pages 10-38 – 10-39:**

~~**10.6.7 Stream Reach Characterization Sheets**~~

~~As an additional mitigation approach for addressing impacts to the riparian corridor, Valley Water may develop reach characterization sheets for areas where frequent maintenance activities are projected to occur during the 10-year SMP-3 period. These sheets would characterize the biological resources, water quality conditions, and overall ecological function of a particular stream reach; indicate ongoing and future maintenance needs; identify whether opportunities exist to avoid and minimize impacts on sensitive habitat areas; and evaluate whether potential restoration opportunities exist within the reach. The characterization sheets may also be used to identify and map large trees with high importance and ecological value and describe potential opportunities for enhancing these trees. A specific number of reach sheets would be developed and provided to regulatory agencies as part of Valley Water's overall SMP-3 mitigation approach.~~

~~Reach characterizations will be helpful in planning to maintain a site in a state of ecological equilibrium. Once a reach characterization has been developed, vegetation management work within the reach can be aligned with the longer-term reach vision. In this way, the maintenance work can be directed toward supporting the longer-term ecologic goal for the reach. If~~

~~vegetation management within a reach can be directed toward achieving that reach's target ecological function and value, then the maintenance work may be exempt from compensatory mitigation requirements. To be exempt from mitigation requirements due to alignment with reach characterizations, proposed work activities must not involve removal of trees greater than 6 inches dbh, result in conversion of habitat from one type to another, or adversely affect the site's function as habitat for special-status species.~~

**Appendix A (SMP Manual), pages 10-19 and 10-20, "SMP-3 Mitigation Approach":**

**Stream Reach Characterization Sheets**

As an additional mitigation approach for addressing impacts to the riparian corridor, Valley Water may develop reach characterization sheets for areas where frequent maintenance activities are projected to occur during the 10-year SMP-3 period. These sheets would characterize the biological resources, water quality conditions, and overall ecological function of a particular stream reach; indicate ongoing and future maintenance needs; identify whether opportunities exist to avoid and minimize impacts on sensitive habitat areas; and evaluate whether potential restoration opportunities exist within the reach. The characterization sheets may also be used to identify and map large trees with high importance and ecological value and describe potential opportunities for enhancing these trees. A specific number of reach sheets would be developed and provided to regulatory agencies as part of Valley Water's overall SMP-3 mitigation approach.

Reach characterizations will be helpful in planning to maintain a site in a state of ecological equilibrium. Once a reach characterization has been developed, vegetation management work within the reach can be aligned with the longer-term reach vision. In this way, the maintenance work can be directed toward supporting the longer-term ecologic goal for the reach. If vegetation management within a reach can be directed toward achieving that reach's target ecological function and value, then the maintenance work may be exempt from compensatory mitigation requirements. To be exempt from mitigation requirements due to alignment with reach characterizations, proposed work activities must not involve removal of trees greater than 6 inches dbh, result in conversion of habitat from one type to another, or adversely affect the site's function as habitat for special-status species.

**Response to Comment B-12**

The comment states that the SFRWQCB would not approve a ratio of less than 1:1 for removal of vegetation <6" dbh and requests that the note stating otherwise in Column 3, "Notes," of Table 10-1 in the SMP Manual should be deleted.

The following statement from the "Notes" column in Table 10-1 on page 10-7 of the SMP Manual has been removed:

> ~~A lower mitigation ratio should be applied where resprouting occurs within 1 year and full functions and values return within 2 years.~~

Valley Water agrees to retain the 1:1 mitigation ratio.

**Response to Comment B-13**

The comment is in reference to the note in Table 10-1 of the SMP Manual regarding mitigation for impacts to non-invasive trees > 6" dbh that reads, "The removal of invasive trees and certain hazard trees (e.g., diseased ones) that provides an ecological benefit does not require mitigation." The comment states that the SFRWQCB would not authorize this and recommends additional evaluation of this impact.

The sentence as written could be misinterpreted to imply that *trees* with ecological benefit would not be mitigated if removed. As described in the SMP Manual, under some circumstances, invasive or hazard tree removal can result in a net ecological benefit by protecting ecological resources from damage. The note is intended to convey that the removal of these trees may not require mitigation. The sentence in the "Notes" column in Table 10-1 on page 10-8 has been revised as follows to provide clarity:

> When t~~T~~he removal of invasive trees and certain hazard trees (e.g., diseased ones) ~~that~~ provides ~~an~~ a net ecological benefit by protecting ecological resources, then no mitigation is required. ~~does not require mitigation.~~

Please see Response to Comment A-6 for a detailed discussion on the mitigation for the removal of invasive trees and certain hazard trees that provide an ecological benefit. In summary, Valley Water has accounted for permanent impacts from hazard tree removal by applying a 25% buffer to vegetation management impact estimates in the DSEIR. Where hazard tree removal is not covered under the VHP, BMP GEN-20 requires revegetation of larger removal areas and prohibits removal of trees with recently active eagle nests. Because hazard trees are those expected to fall imminently, their removal does not represent additional long-term habitat loss and can reduce pathogen spread that threatens bat roosts. Because suitable unoccupied bat-roosting trees remain abundant in the region, related impacts are considered less than significant. To further ensure impact reduction, Valley Water has added BMP GEN-20 to the list of applicable measures under Impact BIO-2A on page 3.4-301 in Section 3.4, *Biological Resources*, and updated Table 10-1 on page 10-8 in Appendix A (SMP Manual) to reflect revegetation requirements for qualifying hazard tree removal areas.

Valley Water will follow up with the commenter on authorized activities and mitigation during the permit development process.

**Response to Comment B-14**

The comment recommends further evaluation of mitigation ratios for the removal of non-invasive trees >6" dbh; suggests retaining the ratios from the SMP 2.5 Manual for removal of trees between 6" and 12" dbh; and recommends a new case-specific analysis of mitigation ratios for trees >12" dbh. The comment states that a higher mitigation ratio may be required for native tree species than for non-native species. The comment also states that the commenter does not agree with footnote 5 of Table 10-1 in the SMP Manual and recommends removal of the footnote.

Valley Water agrees to use the mitigation ratios that were approved in SMP-2 for the removal of non-invasive trees that are >6" dbh. Each non-invasive tree proposed for removal will be evaluated by a qualified biologist for its existing condition, local area value, ecosystem benefits, and ecosystem detriments. Based on these factors and overall quality and function of the tree to be removed, a tree replacement ratio of either 2:1 or 3:1 (replacement tree to removed tree), as approved for SMP-2, will be applied.

Mitigation Measure BIO-12: Compensatory Mitigation for Impacts to Woody Riparian Vegetation on page 3.4-304 in Section 3.4, *Biological Resources,* and on pages I-24 and I-25 in Appendix I, *Mitigation Monitoring and Reporting Program*, has been revised as follows:

> Riparian revegetation would be conducted to establish and/or enhance habitat for native wildlife species while providing shade, sources of organic matter, coarse woody debris, improved root and soil structures and other benefits. Revegetation would occur in the same watershed as the impact and would follow the typical planting palette provided in Chapter 10 or a site-specific palette would be used. ~~Removal of trees >6" dbh that is not mitigated through the VHP will be mitigated through revegetation at a minimum 1:1 ratio.~~ Removal of non-invasive trees >6" dbh that is not mitigated through the VHP will be mitigated through revegetation at either a 2:1 or 3:1 (replacement tree to removed tree). All native trees >6" dbh that are removed will be mitigated at a 3:1 ratio. All non-native trees >6" dbh that are not classified as invasive species will be mitigated at a 2:1 ratio. ~~For each removed non-invasive tree >6" dbh that provides unique functions and values and is otherwise healthy that is removed, Valley Water will install one native tree on a mitigation site within the same watershed~~. The removal of >6" dbh western sycamores and native oaks must be replaced in-kind; otherwise, there is no requirement to match species when replacing trees.

Additionally, in Table 10-1 in Chapter 10, *Mitigation Program*, in Appendix A (SMP Manual) on page 10-8, a range of 2:1 to 3:1 has been inserted to replace the 1:1 ratio that was listed in the "Proposed Mitigation Ratio" column for the removal of non-invasive trees >6" dbh. Text in the "Notes" column on page 10-8 has been edited to state the range in mitigation ratios. Footnote number 5 has been deleted. The edits are as follows:

**TABLE 10-1**
**Summary of Proposed SMP-3 Mitigation Ratios**

| Impact Type | Proposed Mitigation Ratio[1] | Notes | Mitigation Options[6] | SMP Permanently Mitigated Areas (PMA) Established? | VHP Covered Activity (VHP Impact Fee Required or ILF?)[2] |
|---|---|---|---|---|---|
| Removal of non-invasive trees >6" dbh[4, ~~5~~] | ~~1:1~~ 2:1 or 3:1 Tree Replacement Count | All native trees >6" dbh that are removed will be mitigated at a 3:1 ratio. All non-native trees >6" dbh that are not classified as invasive species will be mitigated at a 2:1 ratio. ~~The 1:1 tree replacement count applies to the removal of non-invasive trees, including hazard trees that are otherwise healthy.~~<br>~~The removal of invasive trees and certain hazard trees (e.g., diseased ones) that provides an ecological benefit does not require mitigation.~~ | Encampment clean-up, grant program for local watershed groups, revegetation, ~~reach characterization sheets,~~ post-wildfire recovery | No | Yes |

**Notes:** dbh = diameter at breast height; PMA = permanent mitigation area; sq ft = square feet

~~*Unless covered by the VHP Plan.~~

[1] Mitigation ratios are presented as mitigation obligation: area of impact except where noted as volume of impact. A ratio of 0:1 indicates the activity is self-mitigating. Mitigation ratios may be modified on a project-by-project basis in negotiation with regulatory agencies during the NPW process.

[2] Assuming the SMP is eventually covered under the VHP amendment, SMP-3 maintenance activities that occur within the VHP area would be subject to habitat and land cover impact fees for the indicated activities; in this case, the proposed mitigation ratios will no longer be relevant. If maintenance activities occur outside of VHP-covered areas, or if a species is not covered under the VHP, mitigation would apply as described in Section 10.5.3.

[3] PMAs have been established for sediment removal, removal of vegetation less than 6 inches dbh below OHWM, and aquatic herbicide application.

[4] This includes the removal of both native and non-native trees that are non-invasive.

~~[5] If the tree is determined to provide unique functions and values, removal of the tree will be mitigated at a 1:1 ratio.~~

As described in Chapter 2, *Project Description*, removal of non-hazard trees >12" dbh would be limited to 20 live tree removals per year and 150 live trees over the 10-year Program Renewal period. Additionally, as described above, MM BIO-12 has been updated to include mitigation ratios of up to 3:1 for removal of non-invasive trees, which would include trees >12" dbh. Regarding the commenter's recommendation for a case-specific analysis of mitigation ratios for trees >12" dbh, MM BIO-12 also requires a qualified biologist to evaluate each tree that is proposed for removal to determine the appropriate replacement ratio based on the tree's existing conditions and functions, local area value, ecosystem benefits, and ecosystem detriments. The size of a tree (e.g., dbh) is one factor that relates to a tree's ecosystem benefit and this will be taken into account when a tree is being proposed for removal and in determining what type of mitigation is needed.

**Response to Comment B-15**

The comment notes that the SFRWQCB has not authorized the VHP and requests removal of the footnote in Table 10-1 of Appendix A (SMP Manual) stating that the mitigation ratio for removing trees >6" dbh is 1:1 "unless covered by the VHP Plan." According to the commenter, this language could allow tree removal without appropriate mitigation for impacts on beneficial uses to jurisdictional state waters. The comment requests that the DSEIR be revised to include mitigation measures for removal of trees >6" dbh. It further states that the payment of VHP fees should not be proposed as mitigation for such tree removal without first evaluating how that approach would meet the SFRWQCB's requirements for mitigating impacts to a stream's beneficial uses.

Valley Water will evaluate onsite mitigation options; however, onsite mitigation may not always be feasible. In such cases, participation in an in-lieu fee program (ILFP) through the VHP may serve as an appropriate mitigation alternative that would meet requirements for mitigating impacts to beneficial uses. The payment of fees for impacts would occur in accordance with the types and acreages of habitat. The SFRWQCB participates in the ILFP and has expressed support for using the ILFP under the VHP for certain projects. To further address Comment B-15, footnote 2 in Table 10-1 on page 10-11 in Appendix A (SMP Manual) has been revised as follows:

> Assuming the SMP is eventually covered under the VHP amendment, SMP-3 maintenance activities that occur within the VHP area would be subject to habitat and land cover impact fees <u>and/or purchase of ILF credits</u> for the indicated activities; in this case, the proposed mitigation ratios will no longer be relevant. If maintenance activities occur outside of VHP-covered areas,

or if a species is not covered under the VHP, mitigation would apply as described in Section 10.5.3.

Because the asterisk stating “unless covered by the VHP Plan” is vague and is somewhat redundant with the information provided in footnote 2, which provides a more detailed explanation of the use of VHP and land cover impact fees and/or purchase of ILF credits, the asterisked footnote has been deleted on page 10-11 in Table 10-1 as shown below:

~~*Unless covered by the VHP Plan.~~

Valley Water will follow up with the commenter on authorized activities and mitigation as related to the ILFP during the permit development process.

**Response to Comment B-16**

The comment states that the existing and proposed mitigation ratio of 0:1 for temporary impacts to wetlands should be changed to 1.2:1 to account for temporal loss of wetlands and that a 0:1 ratio is not considered self-mitigating. The comment requests that footnote 1 on Table 10-1 in the SMP Manual be updated to reflect this change.

Wetland habitats change over time, reflecting natural processes such as large flood events. The implementation of maintenance activities can be analogous to such changes in site conditions. In the Program Renewal Area, wetlands typically recover over 1-2 years following vegetation management activities conducted under the SMP as vegetation grows back rapidly (Rankin and Hillman 2000). The consistent return of vegetation, including wetland vegetation, along Valley Water-maintained channels is the reason that vegetation management work is required year after year. If the vegetation did not recover fully and relatively rapidly, such repeated maintenance work would not be necessary.

Nevertheless, Valley Water has revised the mitigation ratio for temporary impacts to wetlands from 0:1 to 0.1:1 in Table 10-1 to account for temporal loss of wetlands during this re-establishment period. It is understood that in the process of issuing a 401 Certification, SFRWQCB may not use the ratio of 0:1 to indicate that an activity is self-mitigating or that it does not require mitigation. Based on further discussion with SFRWQCB, the SFRWQCB may use a ratio of 1:1 to indicate that an activity is self-mitigating in future permits. However, for consistency with current practices, 0:1 is being used to indicate self-mitigating in the SMP Manual. Considering this clarification of definitions and in light of the evidence of the rapid return rate of wetlands following vegetation management work, the increase of the ratio from 0:1 to 0.1:1, or an increase of a .1 in place of .2, is sufficient to mitigate for temporary impacts to wetlands associated with SMP vegetation management activities. Vegetation activities are typically followed with regrowth within the same year following seasonal rains and therefore do not require a replacement ratio of 1.2:1. Temporal loss of wetlands can be mitigated through a suite of mitigation options as reflected in updates to Table 10-1 of the SMP Manual, including but not limited to revegetation, encampment cleanup, trash removal, post-wildfire recovery, and grant programs for local watershed groups. However, in cases where the maintenance activity does not remove vegetation down to root level (typically 16-18 inches below the surface) and no cut stump herbicide is applied and the vegetation has been left in place, no mitigation is required.

The following changes have been made to Table 10-1 on pages 10-8 and 10-9 of Appendix A (SMP Manual) to incorporate mitigation options for temporary impacts on wetlands.

**TABLE 10-1**
**Summary of Proposed SMP-3 Mitigation Ratios**

| Impact Type | Proposed Mitigation Ratio[1] | Notes | Mitigation Options[6] | SMP Permanently Mitigated Areas (PMA) Established? | VHP Covered Activity (VHP Impact Fee Required or ILF?)[2] |
|---|---|---|---|---|---|
| Temporary Impacts to Wetlands | 0.1:1 or 0:1 | ~~If the wetland vegetation reestablishes within 2 years following the impact.~~ In cases where the maintenance activity does not remove vegetation down to root level (typically 16 to 18 inches below the surface) and no cut stump herbicide is applied and the vegetation has been left in place, then no mitigation is required. | ~~N/A~~ Revegetation, encampment cleanup, trash removal, post-wildfire recovery, and grant programs for local watershed groups | N/A | Yes |

**Response to Comment B-17**

The comment states that mitigation requirements related to sediment removal apply to any stream, regardless of earthen or non-earthen channels, noting that this error was corrected in the text revisions of the SMP 2.5 Manual but not in the table.

Valley Water discussed this topic with the SFRWQCB during the permit renewals for SMP-2. As discussed at that time, mitigation would not be required for sediment removal in concrete channels unless vegetation is present. If vegetation is present, a mitigation ratio of 1.2:1 would apply. The following revisions have been made to Table 10-1 on page 10-10 in Appendix A (SMP Manual):

> Proposed mitigation ratio applies to non-PMA, ~~or~~ earthen channel bottom, or when vegetation is present within concrete channels.

**Response to Comment B-18**

The comment requests that the DSEIR and SMP Manual provide additional detail to cover the impacts of removing large woody debris (LWD) from various stream types and conditions, including instances where wood does not meet the SMP's definition of LWD.

As the term is used in the context of Valley Water's Program Renewal, LWD specifically refers to woody material in relation to its role in providing habitat for anadromous salmonids. The definition of LWD employed in the SMP Manual is derived from the California Department of Fish and Wildlife (CDFW) and can be found in CDFW's *California Salmonid Stream Habitat Restoration Manual* (2010). This definition is the standard used in California fisheries management. Since LWD is explicitly linked to salmonid habitat function, this term does not apply to situations where the material is not associated with salmonids. For example, woody material located above the ordinary high-water mark, material in streams that do not support salmonids, and material upstream of the limit of anadromy are inherently inaccessible to anadromous salmonids. Therefore, such woody material cannot be classified as LWD as defined for anadromous salmonids. Root wads and other woody materials found below the ordinary high-water mark in streams accommodating anadromous salmonids may qualify as instream habitat complexity features through the process described in Attachment G, *Steelhead Impact Minimization Measures*, in the SMP Manual. The management of downed trees is thoroughly described in Chapter 9, *Downed Tree Management*, of the SMP Manual. This chapter discusses both LWD and downed trees that do not meet

the criteria to be classified as LWD, providing a comprehensive approach to managing those resources, as well as a new documentation and reporting procedure.

Based on the above information, no changes to the DSEIR or Appendix A (SMP Manual) are required.

**Response to Comment B-19**

The comment notes that DNA analysis of salmonid bones found along the Guadalupe River has identified that Chinook salmon were present in the watershed and requests that a reference be added to Table 3.4-1 of the DSEIR.

The following reference has been added to Table 3.4-1 on page 3.4-3 and to page 7-10 in Chapter 7, *References,* of the DSEIR:

> Lanman RB, Hylkema L, Boone CM, Allée B, Castillo RO, Moreno SA, Flores MF, DeSilva U, Bingham B, Kemp BM. 2001. *Ancient DNA analysis of archaeological specimens extends Chinook salmon's known historic range to San Francisco Bay's tributaries and southernmost watershed.* PLoS One. Published April 15, 2021. Available online at: https://doi.org/10.1371/journal.pone.0244470.

**Response to Comment B-20**

The commenter advises against relying on work window extensions for planning, does not support starting projects after October 15, and recommends removing this provision from BMP GEN-1, noting that any exceptions should be handled case-by-case by the SFRWQCB.

BMP GEN-1 provides standard in-channel work windows and detailed procedures for requesting work window extensions, including regulatory agency approvals for work continuing beyond October 15. Valley Water does not rely on work window extensions for project planning and scheduling. However, inclusion of work window extensions provides a standardized process for reviewing and requesting extensions, including determining the suitability of an area based on the activity type and work location. Valley Water will follow applicable requirements, including notification procedures, in requesting any forthcoming authorizations from the SFRWQCB.

The DSEIR included an ambiguous clause about the timing of projects completed in 5 days or less that could be interpreted in multiple ways. To clarify that Valley Water intends the most environmentally protective interpretation, BMP GEN-1 was revised to remove ambiguity.

The following changes have been made to BMP GEN-1 on pages 2-52 and 2-53 in Chapter 2, *Project Description*, and on page A-3 in Attachment A, *Best Management Practices,* in Appendix A (SMP Manual) in order to clarify work windows and avoid misinterpretations:

2. Other Streams: In creeks not supporting anadromous fish:
    - The work window may be extended until November 30 (or until significant rainfall is forecasted or observed) if the bank stabilization/animal conflict project will be at least 50% complete by October 15. Certain new projects that will be completed in 5 days or less may not be 50% complete by October 15. ~~and for new bank stabilization projects that will be completed in five (5) days or less~~.

**Response to Comment B-21**

The comment states that the SFRWQCB plans to provide additional comments on the SMP Manual as soon as possible; the commenter states this is important because the SMP Manual has many details that are not covered in the DSEIR.

Comment noted. Valley Water will follow up with the commenter during the permit development process to discuss any further comments on the SMP Manual.

**Response to Comment B-22**

The comment states the SFRWQCB looks forward to responses and continuing to work on the SMP and provides contact information for questions.

Comment noted; no further response needed.

# 3.4 Other Revisions to the DSEIR

Other modifications to the DSEIR not shown in the Section 3.3 responses to comments are noted as follows and have been included in Volume II.

# Draft Subsequent Environmental Impact Report

## *Acronyms*

The "BCDC" description on page xi is revised as follows:

> San Francisco Bay Conservation and Development Commission

## *Glossary of Significant Terms*

The definition for "Appurtenant Structures" on page xxiv has been revised as follows:

> Accessory structures, such as storm outfalls, stream gauges, trash racks, flap gates, tide gates, bridges, vaults, wing walls, and headwalls, that are associated with channels.

The definition for "Bank/Bench" on page xxiv has been revised as follows:

> The area of the bank above the bankfull elevation and below the toe of levee inboard if in a reach with levee~~, and below the property line if not in a levee reach~~.

The definition for "Bank Repair" on page xxiv has been revised as follows:

> See "Bank Stabilization." ~~Maintenance of existing bank stabilization structures with in-kind, in-place materials. This type of maintenance occurs when such structures fail.~~

A new term and definition have been added on page xxxii:

| | |
|---|---|
| **Instream Vegetation Removal** | Physical removal of vegetation from the instream area using hand tools or other mechanical means. |

The first sentence in the definition for "Marsh Master" on page xxxiii has been revised as follows:

> A mechanized vegetation management vehicle with low ground pressure used for aquatic plant control in wetland, marsh, and floodplain ~~and marsh~~ areas.

The term "orographic" and its definition have been deleted on page xxxv.

| | |
|---|---|
| ~~**Orographic**~~ | ~~The effect that occurs when an air mass is forced from a low elevation to a higher elevation as it moves over rising terrain. The air mass cools, its relative humidity increases, and clouds may form.~~ |

The term "Pruning" and its definition have been deleted on page xxxvi.

**~~Pruning~~** ~~The systematic removal of branches of a plant, usually a woody perennial.~~

The second-to-last sentence in the definition for "Routine Stream Maintenance" on page xxxviii has been revised as follows:

> Routine stream maintenance also includes more minor maintenance activities, such as trash removal; fence work; access road maintenance; repair of structures with in-kind materials within the same footprint (such as replacement of concrete linings, culverts, pipes, valves, or similar structures); cleaning and minor sediment removal at stream gauges, outfalls, flap gates, tide gates, fish ladders; and graffiti removal.

The word "Habitat" has been moved after "(SRA)" in the term "Shaded Riverine Aquatic Habitat (SRA)" on page xl as follows:

> Shaded Riverine Aquatic (SRA) Habitat ~~(SRA)~~

The definition for "SMP-2" on page xl has been revised as follows:

> Valley Water's current ~~previous~~ Stream Maintenance Program for 2013-2023~~6~~.

The definition for "SMP-3" on page xl has been revised as follows:

> Valley Water's proposed ~~current~~ Stream Maintenance Program for 2027-2036. Also referred to as "Program Renewal."

## *Executive Summary*

The date for SMP-2 has been revised from 2014-2023 to 2013-2023 on page E-21 as follows:

> Several federal and state regulatory agencies granted permits, approvals, and permit extensions to Valley Water to implement SMP-2 (for the 2013~~4~~-2023 period), some of which expired in 2023 and 2024.

The third bullet under ES.9.1 *Significant and Unavoidable Impacts* on page E-25 has been revised as follows:

- Impact NZ-2~~3~~: Generate Excessive Ground Vibration or Ground-borne Noise Levels.

"Gages" has been changed to "gauges" on page E-27 as follows:

> Under the Limited Work in Unmodified Channels Alternative (Limited Work Alternative), maintenance activities that could be done in unmodified channels would be limited to within 100 feet upstream and downstream of human-made structures, such as bridges, road crossings, stream gauges, outfalls, and trash racks.

## *Chapter 2, Project Description*

On Figures 2-7 (Photo 5) and 2-8 (Photos 1 and 2), "Aquino" has been added after "Tomas."

Under *Pruning* in the first paragraph on page 2-21, the text was revised as follows:

> Pruning typically takes place along maintenance roads, fences, access ramps, ~~and~~ levee slopes, public or private roadways, sidewalks, and around traffic or other signage. ~~although it~~ It may also occur in-channel or along terrace areas.

Under *Tree Removal* in the second paragraph on page 2-23, the text was revised as follows:

> Removal of hazard trees may also be needed to ensure public safety along or adjacent to Valley Water land, facilities, channels, access roads, and access ramps.

Under *Mowing* in the first paragraph on page 2-25, the text was revised as follows:

> Except when performed for flow conveyance, mowing is conducted in accordance with local fire codes.~~, which require that all weeds and grasses be maintained below 6 inches in height for 10 feet laterally on both sides of access roads.~~

Under *Management of Animal Conflicts* in the second paragraph on page 2-37, the text has been revised as follows:

> Heavy equipment (e.g., excavators, compact track loaders, and soil compactors) may be used to modify habitat conditions and reduce or eliminate burrowing animals through surface compaction, filling of burrows with slurry~~, and tilling areas to destroy food sources~~.

The date for SMP-2 has been changed from 2014-2023 to 2013-2023 on page 2-42 as follows:

> Under SMP-2 (2013~~4~~-2023), Valley Water adjusted its approach to include more on-site and off-site mitigation activities based on annual work needs in addition to seeking additional PMAs.

The date for SMP-2 has been changed from 2014-2023 to 2013-2023 on page 2-47 as follows:

> Several federal and state regulatory agencies granted permits, approvals, and permit extensions to Valley Water to implement SMP-2 (for the 2013~~4~~-2023 period), some of which expired in 2023 and 2024.

Item #2 in BMP GEN-43 *Public Outreach* on page 2-94 has been revised as follows:

> 2. Local governments (cities and County) will be notified of scheduled maintenance work. The NPW will be submitted to the public works departments~~,~~ and local fire districts.~~, and Valley Water's Flood Protection and Watershed Advisory Committees.~~

# *Chapter 3, Environmental Setting and Impact Analysis*

An "A" has been added onto Impact BIO-1AA: Impacts on the Bay Checkerspot Butterfly (Less than Significant with Mitigation) on page 3.4-295.

## *Chapter 5, Alternatives Analysis*

"Gages" has been changed to "gauges" on page 5-31 as follows:

> Under the Limited Work in Unmodified Channels Alternative (Limited Work Alternative), maintenance activities that could be done in unmodified channels would be limited to within 100 feet upstream and downstream of human-made structures, such as bridges, road crossings, stream gauges, outfalls, and trash racks.

# Appendix A, SMP Manual

## *Table of Contents*

Section 3.7.3, "Workplan for Development of Maintenance Guidelines" on page ii has been deleted as follows:

~~3.7.3 Workplan for Development of Maintenance Guidelines……..3-22~~

The date for *SMP-2 Mitigation Approach* under Chapter 10 *Mitigation Program* in the Table of Contents on page v has been changed from 2014-2023 to 2013-2023 as follows:

10.3 SMP-2 Mitigation Approach (2013~~4~~-2023)……..10-2

## *Acronyms*

The description for the BCDC acronym on page ix has been revised as follows:

BCDC San Francisco Bay Conservation and Development Commission

The SMP-1 years have been changed from 2002-2013 to 2002-2012, and the SMP-2 years have been changed from 2014-2023 to 2013-2023 on page xi as follows:

SMP-1 Stream Maintenance Program 2002-2012~~3~~
SMP-2 Stream Maintenance Program 2013~~4~~-2023

## *Glossary of Significant Terms*

The definition for "Annual Plant" on page xiii has been revised as follows:

A plant that completes its life cycle and dies in one growing season or one year (e.g., poppies, ~~monkeyflower,~~ wild oat).

The definition for "Bank/Bench" on page xiv has been revised as follows:

The area of the bank above the bankfull elevation and below the toe of levee inboard if in a reach with levee~~, and below the property line if not in a levee reach~~.

The definition for "Bank Repair" on page xiv has been revised as follows:

| | |
|---|---|
| Bank Repair | See Bank Stabilization. ~~Maintenance of existing bank stabilization structures with in-kind, in-place materials. This type of maintenance occurs when such structures fail.~~ |

"Biotechnical Channel" has been deleted on page xvi as follows:

| | |
|---|---|
| ~~Biotechnical Channel~~ | ~~A natural or artificial waterway that periodically or continuously contains moving water, or which forms a connecting link between two bodies of water.~~ |

"Depauperate" has been deleted on page xix as follows:

| | |
|---|---|
| ~~Depauperate~~ | ~~An ecosystem that lacks sufficient stored quantities of the chemical elements required for life. Depauperate ecosystems cannot support rapid growth of flora and fauna, high biomass density, or high biological diversity.~~ |

The definition for "Designated Individual" on page xx has been revised as follows:

An individual ~~non-biologist~~ who has been trained by a Valley Water qualified biologist and has shown proficiency in carrying out specific tasks.

The definition for "Habitat Conservation Plan (HCP)" on page xxiii has been revised as follows:

Plan under the Endangered Species Act negotiated between the federal government and private landowners or state and local governments. These plans are designed to allow landowners to receive a federal permit to unintentionally harm listed species in the course of completing projects. In exchange for a permit, landowners agree to pursue specific management protections for threatened and endangered species. An example of an HCP is the Santa Clara Valley Habitat Plan (VHP).

The definition for "Herbicide" on page xxiv has been revised as follows:

A chemical agent used to control ~~kill plants~~ or inhibit plant growth.

The definition for "In-Kind Repair" on page xxvi has been revised as follows:

For the purposes of the Stream Maintenance Program, in-kind repair refers to repair of structures with similar materials within the same footprint. ~~maintenance of a bank stabilization structure with in-kind, in-place materials. This type of maintenance occurs when such structures fail.~~

"Instream Vegetation Removal" has been added on page xxvi as follows:

**Instream Vegetation Removal** Physical removal of vegetation from the instream area using hand tools or other mechanical means.

The definition for "Invasive Plant" has been revised on page xxvi as follows:

~~An invasive plant species is either native or non-native that causes concern in native ecosystems. An invasive plant species that reproduces rapidly and has the ability to spread aggressively outside its natural range, since the normal pressures of disease and predation which typically keep a populations growth in check are not present.~~ A non-native plant that, once introduced, establishes, quickly reproduces and spreads, and cause harm to the environment, economy, or human health. Invasive plant species may alter ecological processes such as pollination patterns, nutrient cycling, and fire regimes, and may modify canopy architecture, causing a loss of cover, nesting and foraging habitat for wildlife species. Invasive plants' a~~A~~ggressive growth patterns often outcompete ~~with~~ native plant species.

For purposes of SMP, invasive plants are those species which are listed as invasive in Chapter 4 of the SMP Manual.

The definition for "Invasive Species" on page xxvi has been revised as follows:

~~A plant or animal that aggressively spreads outside its native range.~~

A plant and/or wildlife species that is non-native or alien to the ecosystem and whose introduction causes or is likely to cause environmental harm. See "Invasive Plant."

"Limb Removal" has been removed on page xxvii:

~~Limb Removal The cutting of a branch greater than 4 inches in diameter.~~

The definition for "Marsh Master" on page xxviii has been revised as follows:

A mechanized vegetation management vehicle with low ground pressure used for aquatic plant control in wetland, marsh, and floodplain ~~marsh~~ areas. The Marsh

Master can be fitted with multiple attachments for mowing, cutting, discing, and applying herbicide.

The definition for "Natural Channel" on page xxviii has been revised as follows:

A watercourse without any significant improvements or modifications and very little evidence of historical alterations. See also "Unmodified Channel."

The definition for "Non-Native Plant" on page xxix has been revised as follows:

For SMP purposes, any plant species which is thought to have not been present in Santa Clara County prior to the mid-1500s CE and which was introduced by human activity. ~~A plant species that, under natural conditions, does not originate within the ecosystem in which it is found. See "Invasive Plant."~~

"Orographic" has been deleted on page xxix as follows:

~~Orographic — The effect that occurs when an air mass is forced from a low elevation to a higher elevation as it moves over rising terrain. The air mass cools, its relative humidity increases, and clouds may form.~~

The definition for "Policy" on page xxx has been revised as follows:

~~Statement/commitment made by the Board of Directors describing a condition or course of action.~~

A principle of action guiding decision-making, both for individual stream maintenance projects and for the implementation of other related programs and projects. Policies are commitments made by Valley Water's Board of Directors.

The definition for "Riparian Vegetation" on page xxxiii has been revised as follows:

Riparian Vegetation ~~(or Habitat)~~ ~~Riparian habitat is composed of t~~The trees and other vegetation ~~and physical features~~ normally found on the stream banks and flood plains associated with streams, lakes, or other bodies of water.

The definition for "Rootwad" on page xxxiii has been revised as follows:

A tree stump (dead or alive) with attached roots. May be used during restoration activities.

The definition for "Routine Stream Maintenance" on page xxxiv has been revised as the following:

> Routine stream maintenance includes five main activities, as follows: (1) sediment removal activities that are designed to restore the design flow conveyance capacity of existing Valley Water channels or associated features (e.g., tide gates); (2) vegetation management in and around ~~the~~ Valley Water's channels, including removal of vegetation for access and fire control; (3) bank stabilization activities necessary to protect Valley Water or other facilities; (4) downed tree management (including large woody debris); and (5) management of animal conflicts. Routine stream maintenance also includes more minor maintenance activities, such as trash removal; fence work; access road maintenance; repair of structures with in-kind materials within the same footprint (such as replacement of concrete linings, culverts, pipes, valves, or similar structures); cleaning and minor sediment removal at stream gauges, outfalls, flap gates, tide gates, fish ladders; and graffiti removal. Routine maintenance does not include emergency work.

The word "Habitat" has been moved after "(SRA)" in the term "Shaded Riverine Aquatic Habitat (SRA)" on page xxxvi as follows:

> Shaded Riverine Aquatic (SRA) Habitat ~~(SRA)~~

A missing closed parenthesis was added in the definition for "Shrub" on page xxxvi as follows:

> Shrub Woody plant smaller in height than a tree (less than approximately 16 feet [5 meters] at maturity), often formed by a number of vertical or semi-upright branches arising close to the ground.

The definition of "SMP-2" on page xxxvi has been revised as follows:

> Valley Water's current ~~previous~~ Stream Maintenance Program for 2013–2023~~6~~.

The definition of "SMP-3" on page xxxvi has been revised as follows:

> Valley Water's proposed ~~current~~ Stream Maintenance Program for 2027–2036.

## *Chapter 1, Introduction*

The year for SMP-2 has been changed from 2014-2023 to 2013-2023 in the last paragraph on page 1-1 as follows:

> The evaluation of SMP environmental impacts for the second 10-year period, 2013~~4~~–2023 (referred to as "SMP-2"), was addressed through a Subsequent Environmental Impact Report (SEIR) and was developed in compliance with the California Environmental Quality Act (CEQA).

The year for SMP-2 has been changed from 2014-2023 to 2013-2023 in the last paragraph on page 1-8 as follows:

> In planning for each 10-year SMP period (2002–2012, 2013~~4~~–2023, and 2027–2036), a Valley Water team with expertise in creek conveyance requirements developed maintenance work projections for the respective Program period.

"Long—term" has been replaced with "long-term" in the first paragraph under *Ongoing Maintenance of Capital Improvement Projects* on page 1-14 as follows:

> Future CIPs will analyze and account for their construction and long-term operations and maintenance (O&M) impacts under their own environmental review processes.

"-2" has been added to "SMP Manual" in the second paragraph under *Channel Types* on page 1-14 as follows:

> Channels classified as "Modified Channel with Ecological Value" in the previous SMP-2 Manual are now classified as "Modified Channel."

On Figures 1-7a (Photo 5) and 1-8 (Photos 1 and 2), "Aquino" has been added after "Tomas."

## *Chapter 2, Environmental Agencies and Regulatory Framework*

The first sentence in the second paragraph under *2008 Mitigation Rule: U.S. Army Corps of Engineers and U.S. Environmental Protection Agency* on page 2-21 has been revised as follows:

> According to the 2008 Mitigation Rule, compensatory mitigation may involve the restoration (re-establishment or rehabilitation), establishment, enhancement, and/or preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved (Section 332.2).

## *Chapter 3, Maintenance Planning and Impact Avoidance*

In Table 3-1 under *Activities That Do Not Involve Ground Disturbance* in the first column under *Vegetation*, on page 3-6, the following revision was made:

| Activities That Do Not Involve Ground Disturbance |
|---|
| Vegetation Management |

| | | | | |
|---|---|---|---|---|
| Vegetation Removal ~~(without ground disturbance)~~ and Pruning (<6" dbh and tree removal 6-12" dbh) | Year-Round | No work shall occur within 24 hours prior to and following significant rainfall. | Work may occur within the wetted portion of the channel from October 16 to December 31 except when wheeled or tracked equipment needs to access the site by crossing a creek, ponded area, or secondary channel.<br>From October 16 to December 31, work activities will not occur within wetted areas of the channel unless the pre-activity surveys and biological monitoring described in BMPs GEN-6.1, GEN-6.2, GEN-7, GEN-10, GEN-11, GEN-12, GEN-13, GEN-16, and GEN-18, as applicable, are performed. | None.[9] |

The following sentence was removed on page 3-12 under *Vegetation Management (VEG-X)*:

> ~~Valley Water minimizes impacts by specifically targeting emergent vegetation in the late winter and spring.~~

The following sentence was revised as follows in the first paragraph under Purpose and Objectives on page 3-16:

> MGs are not developed for all Valley Water channels, but Valley Water <u>has completed MGs for 40 creeks.</u> ~~is on schedule for developing 40 by the end of 2023.~~

The following changes have been made on page 3-22:

> The title, "3.7.3 Workplan for Development of Maintenance Guidelines" has been deleted. The subsequent paragraphs under this section remain. The text has been revised as follows:
>
> ~~3.7.3 Workplan for Development of Maintenance Guidelines~~
>
> The following sentences have been revised:
>
> > Under SMP-2, Valley Water updated existing MGs or developed new MGs for 4<u>0</u>~~2~~ facilities.

Table 3-~~13~~ and Figures 3-4 and 3-5 (figures provided at the end of the chapter) show facilities where Valley Water has developed MGs ~~and facilities where MGs are under development~~. ~~Facilities are listed by watershed.~~ MGs for any new capital facilities will be informed ~~developed~~ through the CIP process.

Table 3-4 on pages 3-23 and 3-24 has been revised as follows:

**TABLE 3-1**
**List of Creeks with MGs ~~(or planned)~~**

| Watershed[1] | Creek[2] | GIS Station (downstream extent)[3] | GIS Station (upstream extent)[3] | ~~Status~~[4] |
|---|---|---|---|---|
| Lower Peninsula | Adobe | 0+00 | 561+90 | ~~2015~~ |
| | Stevens | 0+00 | 670+00 | ~~2015~~ |
| | Matadero | 85+00 | 418+00 | ~~2017~~ |
| | Permanente | 1+50 | 506+00 | ~~2019~~ |
| | San Francisquito | 0+00 | 492+00 | ~~2019~~ |
| | Barron | 0+00 | 190+00 | ~~2022~~ |
| West Valley | Calabazas | 0+00 | 679+00 | ~~2015~~ |
| | San Tomas Aquino | 0+00 | 824+00 | ~~2017~~ |
| | Saratoga | 0+00 | 523+50 | ~~2019~~ |
| | Regnart | 0+00 | 139+75 | ~~2019~~ |
| | Wildcat | 0+00 | 194+80 | ~~2022~~ |
| | Rodeo | 0+00 | 113+98 | ~~2022~~ |
| | ~~Sunnyvale East Channel~~ | ~~0+00~~ | ~~339+87~~ | ~~2023~~ |
| Guadalupe | Ross | 0+00 | 324+72 | ~~2014~~ |
| | Alamitos | 0+00 | 405+96 | ~~2016~~ |
| | Golf | 0+00 | 90+00 | ~~2016~~ |
| | Los Gatos | 0+00 | 420+00 | ~~2017~~ |
| | Randol | 0+00 | 38+00 | ~~2019~~ |
| | Canoas | 0+00 | 390+34 | ~~2023~~ |
| | Greystone | 0+00 | 81+89 | ~~2023~~ |
| | Guadalupe River | 0+00 | 1074+15 | ~~2023~~ |
| Coyote | Upper Silver | 0+00 | 393+87 | ~~2015~~ |
| | Lower Penitencia | 46+00 | 217+00 | ~~2017~~ |
| | Berryessa | 205+00 | 301+50 | ~~2017~~ |

| Watershed[1] | Creek[2] | GIS Station (downstream extent)[3] | GIS Station (upstream extent)[3] | ~~Status~~[4] |
|---|---|---|---|---|
| | Lower Silver | 0+00 | 317+20 | ~~2019~~ |
| | Thompson | 0+00 | 184+00 | ~~2019~~ |
| | Coyote | 305+80 | 714+00 | ~~2019~~ |
| | Calera | 0+00 | 75+17 | ~~2023~~ |
| | Sierra | 0+00 | 110+68 | ~~2023~~ |
| | Los Coches | 0+00 | 63+00 | ~~2023~~ |
| | Upper Penitencia | 0+00 | 219+06 | ~~2023~~ |
| Uvas/Llagas (Pajaro) | Lions | 0+00 | 187+94 | ~~2015~~ |
| | Uvas-Carnadero | 367+50 | 465+00 | ~~2016~~ |
| | Princevalle Storm Drain | 0+00 | 95+34 | ~~2016~~ |
| | Llagas | 0+00 | 382+00 | ~~2017~~ |
| | West Branch Llagas | 0+00 | 220+00 | ~~2017~~ |
| | Jones | 0+00 | 256+00 | ~~2018~~ |
| | Madrone Channel | 0+00 | 217+50 | ~~2019~~ |
| | North Morey Channel | 0+00 | 13+48 | ~~2023~~ |
| | South Morey Channel | 0+00 | 33+13 | ~~2023~~ |
| | Edmundson | 0+00 | 43+39 | ~~2023~~ |

Note: ~~Shaded cells indicate creeks for which MGs have been prepared (as of March 2022)~~ The MGs for the above creeks were updated in 2023 and are being utilized as working documents.

[1] MGs are developed for reaches of creek in which there is a defined LOS and where Valley Water has the authority to operate.

[2] Watersheds are organized geographically, as follows: Lower Peninsula, West Valley, Guadalupe, Coyote, and Uvas/Llagas (Pajaro).

[3] GIS stationing may be adjusted as LOS are defined.

[4] ~~Status indicates year in which MG was prepared and/or is projected to be completed.~~

For Figures 3-4 and 3-5, the following edits have been made:

- The color of the Sunnyvale East Channel has been changed from orange to blue and the Sunnyvale East Channel label has been removed (these changes have been made because the flood protection capital improvement project is anticipated to be completed in the near future and would have a corresponding MG prepared, and Valley Water staff determined that the MG for this part of the creek did not need to be updated for the Program Renewal)

- The color of all creeks (with the exception of the Sunnyvale East Channel) that were shown in orange have been changed to purple since all MGs were updated in 2023
- "Maintenance Guidelines Proposed" and the corresponding orange line were removed from the legend

## *Chapter 4, Vegetation Management*

The fourth sentence in the first paragraph on page 4-2 has been revised as follows:

> Vegetation management may in some cases also be needed adjacent to public roads, sidewalks, recreational trails, and traffic or other signage to maintain safety for both Valley Water staff accessing facilities and the general public.

The second bullet point and second paragraph on page 4-3 have been revised as follows:

> - Vegetation growth along public roads, existing maintenance roads, access ramps, maintenance footpaths, and fence lines significantly impairs access. Such impairments may hinder safe pedestrian access or cause damage to vehicles or equipment traveling along the roadway or ramp.
>
> Herbicide application is conducted pre-emptively on public roads, maintenance roads, access ramps, maintenance footpaths, and fence lines and therefore does not have a specific trigger mechanism. Post-emergent herbicide application to maintain access is planned and scheduled for dry periods during spring through mid-fall ~~through late spring~~ before weeds or other undesirable vegetation become established. Pre-emergent herbicide application for access typically occurs from October through February to coincide with the rainy season. While some maintenance sites may be accessed through public roads, established maintenance roads, footpaths, or ramps, access to some maintenance sites may require vegetation management outside of the established access routes to allow staff, equipment, and materials to reach the site.

The following sentences have been revised in the first and second paragraphs under *Hazard Trees* on page 4-5:

> ~~Because it takes time – often years – for trees to respond to changing environmental conditions, Valley Water's arborists are just beginning to observe the drought effects on trees that started in 2012.~~ Valley Water arborists have observed significant tree decline and mortality related to the droughts starting in 2012. Drought related tree issues are projected to continue. In addition, an increase in encampments in Valley Water's channels has resulted in damage to trees, which may pose additional public safety hazards.
>
> Hazard tree management activities may include tree removal or pruning to remove dead, dying, defective, or diseased tree parts. This work may be conducted to reduce the risk of hazard trees or limbs falling on Valley Water facilities, roads, other infrastructure, adjacent properties, or humans. Trees that are predicted to become hazardous in the future may also be pruned to promote safe and healthy growth in the future. Early correction of hazardous tree concerns

is often optimal for overall tree health. These activities may also require vegetation management to access the hazard tree site.

The following sentences have been revised in the first paragraph under *Maintenance Triggers for Hazard Trees* on page 4-6:

Hazard tree pruning and removal efforts will be triggered by ISA Certified Arborists holding a Tree Risk Assessment Qualification (TRAQ). Only trees with current hazards or projected future hazards to people, property, roads, other infrastructure, or Valley Water facilities will be managed under the hazard tree program. ~~Pruning and removal of hazard trees are triggered when the tree or dead, dying, defective, or diseased tree parts have a high likelihood of failure within the coming year (due to storm, high wind, natural decay, or other causes) and the falling of that tree or tree parts could pose a direct hazard to people, property, roads, other infrastructure, or Valley Water facilities.~~

The following sentence has been revised in the first paragraph under *Tree Removal* on page 4-9:

Removal of hazard trees may also be needed to ensure public safety along or adjacent to Valley Water land, facilities, channels, access roads, and access ramps.

The following sentence has been revised in the first paragraph under *Pruning* on page 4-10:

Pruning typically takes place along maintenance roads, fences, access ramps, ~~and~~ levee slopes, public or private roadways, sidewalks, and around traffic or other signage. ~~although it~~ It may also occur in-channel or along terrace areas.

The following sentence has been revised under *General Pruning Requirements*, #2, on page 4-11:

#2. Pruning will be performed according to American National Standards Institute (ANSI) A300 Tree Care Standards (Clause 5) Pruning (2023) ~~(Part 1) 2017 Pruning~~, ANSI Z133.1 – 2000 Safety Requirements and ISA *Best Management Practices Tree Pruning* (2019 or most current version).

The following sentence has been revised under *Corrective Pruning Requirements*, #2, on page 4-11:

#2. Corrective pruning will be prescribed~~, and trees will be marked~~ by an ISA-certified arborist.

The following sentence has been revised in the first paragraph under *Mowing* on page 4-12:

Except when performed for flow conveyance, mowing is conducted in accordance with local fire codes.~~, which require that all weeds and grasses be maintained below 6 inches in height for 10 feet laterally on both sides of access roads.~~

The following sentence in the first paragraph under *Activity Description* on page 4-15 has been revised as follows:

> The application of herbicide occurs in-channel (below Ordinary High Water Mark [OHWM]) on lower elevation maintenance roads, access ramps, and terrace areas, as well as on non-in-channel areas (above OHWM) such as upper elevation maintenance roads, fence lines, and inboard or outboard levee slopes.

The following sentence in the first paragraph on page 4-16 has been revised as follows:

> During all herbicide applications, notifications are posted near treated areas to notify the public of the application.

On page 4-18, in the Notes under Table 4-1, the "s" was deleted from, "Notes."

On pages 4-20 and 4-21 in Table 4-2, the spelling of the following species' names has now been corrected: *Cas~~u~~arina cunninghamiana*, *Cy~~s~~tisus scoparius*, *woolly distaff thistle*, *Clematis vitalba~~l~~*, *Cuscuta japonica~~l~~*, fountain grass, medusa-head, *L. didymum*, and Algerian sea lavender.

The following sentences under *Pruning* on page 4-25 have been revised as follows:

> Pruning activities include removal of overhanging growth from maintenance roads, ramps, levee slopes, ~~and~~ fence lines, public or private roadways, sidewalks, recreational trails, and around traffic or other signage. ~~To~~ This will provide access to Valley Water facilities, improve visibility to inspect Valley Water facilities, provide fire and public safety, protect Valley Water infrastructure, and maintain the designed hydraulic capacity of the channel systems.

## *Chapter 9, Downed Tree Management*

On page 9-i, "CHAPTER 9. DOWNED TREE MANAGEMENT" has been added to the top of the Table of Contents.

On page 9-6 in Table 9-3, an "i" has been added to "Lake Silveira."

## *Chapter 10, Mitigation Program*

The year for SMP-2 has been changed from 2014-2023 to 2013-2023 in the Table of Contents on page 10-i as follows:

> 10.3 SMP-2 Mitigation Approach (201~~4~~3-2023)……..10-2

In the heading and first paragraph under *SMP-2 Mitigation Approach (2014-2023)* on page 10-2, the year for SMP-2 has been changed from 2014-2023 to 2013-2023 as follows:

10.3 SMP-2 MITIGATION APPROACH (2013~~4~~-2023)

SMP-2 refers to the second decade of the SMP, 2013~~4~~-2023 with permit extensions through 2026.

The following sentence in the first paragraph on page 10-5 has been revised as follows:

Additionally, work that falls into the Fire Resilience~~y~~ purpose category or hazard tree removal which is determined to provide a net ecological benefit by protecting ecological resources from damage by fire will also be exempt from mitigation requirements.

The fifth paragraph under *Stevens Creek Evelyn Fish Passage Project* on page 10-32 has been revised as follows:

The reconstructed Evelyn Project could potentially function as mitigation for SMP-3 impacts to steelhead, waters of the U.S./waters of the state, and other instream beneficial uses in the Lower Peninsula watershed.

In Table 10-5 on pages 10-35 and 10-36, *Elymus triticoides* was removed from *Low Plants, Vines* section of the table on page 10-35 and inserted into the *Grasses* section of the table on page 10-36.

In Table 10-5 on page 10-35, "(Seed)" was removed from its place after "Grasses."

## *Chapter 11, Program Management and Reporting*

In Table 11-1 on page 11-, "along maintenance roads" was deleted for "Herbicide application" under *Access to Valley Water Flood Control Facilities.*

Under Work Activities Not Requiring Notification, #4, the following revision was made on page 11-7:

Herbicide spraying on maintenance roads and revegetation sites, including areas adjacent to upper maintenance roads and 2 feet below the top of bank hinge, or areas greater than 2 feet below the hinge and separated by a wide area (at least 40 feet) where the herbicide will not drift or flow into the creek.

## *Attachment A, Best Management Practices*

Item #2 in BMP GEN-43 Public Outreach on page A-46 has been revised as follows:

2. Local governments (cities and County) will be notified of scheduled maintenance work. The NPW will be submitted to the public works departments, and local fire districts.~~, and Valley Water's Flood Protection and Watershed Advisory Committees.~~

### *Attachment I, Annual Notification Report Template*

The second paragraph (one sentence) on page 1-7 was deleted as follows:

> ~~Each SMP-3 item must have only one work activity and only one location. Two NPW items with the same activity cannot have intersecting stationing locations.~~

## 3.5 References

BMPBooks. 2007. Streamside Grazing – Best Management Practices. Ontario Federation of Agriculture.

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DeVries, Peter. 1997. Riverine salmonid egg burial depths: review of published data and implications for scour studies. Canadian Journal of Fisheries and Aquatic Science 54.

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Rankin, G. and Hillman, J. 2000. Instream Wetland Vegetation Regrowth Study, Second Annual for 1999. Santa Clara Valley Water District.

Santa Clara Valley Water District (Valley Water). 2011. Stream Maintenance Program Update. Final Subsequent Environmental Impact Report.

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