



# C

## Regulatory Framework

# C Regulatory Framework

## C.1 Introduction

This regulatory framework presents the federal, state, and local laws, regulations, orders, policies, and plans that are relevant to each environmental resource topic analyzed in the Paradise Sewer Project Environmental Impact Report (EIR), Chapter 3, Environmental Impact Analysis. This regulatory framework is applicable to construction, operation, and maintenance of the Proposed Project. This regulatory framework is needed provide regulatory context and background for each resource area in order to determine if the Proposed Project would be consistent with federal state and local regulations and to assess environmental impacts.

## C.2 Agriculture and Forestry Resources

This section summarizes the federal, state, and local laws, regulations, orders, policies, and plans that are relevant to the analysis of agriculture and forestry resources in the EIR, Section 3.2.

### C.2.1 Federal

#### Farmland Protection Policy Act

Congress enacted the Farmland Protection Policy Act (FPPA) as part of the Agriculture and Food Act of 1981. The US Department of Agriculture's Natural Resources Conservation Service is responsible for implementation of the FPPA. The FPPA is intended to minimize the impact federal programs have on the unnecessary and irreversible conversion of farmland to nonagricultural uses. The FPPA assures that federal programs are administered in a manner that is compatible with state, local, and private programs designed to protect farmland. Federal agencies are required to develop and review their policies and procedures to implement the FPPA every two years. The FPPA does not authorize the federal government to regulate the use of private or non-federal land or, in any way, affect the property rights of owners.

For the purposes of the FPPA, farmland includes prime farmland, unique farmland, and land of statewide or local importance. Farmland subject to the FPPA requirements does not have to be currently used for cropland. It can be forest land, pastureland, cropland, or other land, but not water or urban built-up land.

Projects are subject to FPPA requirements if they may irreversibly convert farmland (directly or indirectly) to nonagricultural use and are completed by a federal agency or with assistance from a federal agency. Activities that may be subject to FPPA include:

- State highway construction projects (through the Federal Highway Administration)
- Airport expansions
- Electric cooperative construction projects
- Railroad construction projects

- Telephone company construction projects
- Reservoir and hydroelectric projects
- Federal agency projects that convert farmland
- Other projects completed with federal assistance

## C.2.2 State

### California Department of Conservation

The California Department of Conservation (DOC) provides services and information that promote environmental health, economic vitality, informed land-use decisions, and sound management of the state's natural resources. The DOC administers and supports a number of programs, including the Williamson Act, the California Farmland Conservancy Program, the Williamson Act Easement Exchange Program, and the Farmland Mapping and Monitoring Program (FMMP). These programs are designed to preserve agricultural land and provide data on conversion of agricultural land to urban use.

### Farmland Mapping and Monitoring Program

The FMMP produces maps and statistical data used for analyzing impacts on California's agricultural resources. The maps are updated every 2 years using a computer mapping system, aerial imagery, public review, and field reconnaissance. Agricultural land is rated according to soil quality and irrigation status. The following categories are mapped by the DOC (DOC 2021b):

The FMMP categories mapped by the DOC include the following (DOC 2021a):

- **Prime Farmland:** This farmland has the best combination of physical and chemical features able to sustain long-term agricultural production. Prime Farmland has the soil quality, growing season, and moisture supply needed to produce sustained high yields. Land must have been used for irrigated agriculture production at some time during the 4 years prior to the mapping date.
- **Farmland of Statewide Importance:** This farmland is similar to Prime Farmland, but with minor shortcomings, such as greater slopes or less ability to store soil moisture. Land must have been used for irrigated agricultural production at some time during the 4 years prior to the mapping date.
- **Unique Farmland:** Farmland of lesser quality soils used for the production of the state's leading agricultural crops. This land is usually irrigated but may include non-irrigated orchards or vineyards as found in some climatic zones in California. Land must have been cropped at some time during the 4 years prior to the mapping date.
- **Farmland of Local Importance:** Land of importance to the local agricultural economy as determined by each county's board of supervisors and a local advisory committee.
- **Grazing Land:** Land on which the existing vegetation is suited to the grazing of livestock.

- **Urban and Built-up Land:** Land occupied by structures with a building density of at least 1 unit to 1.5 acres, or approximately 6 structures to a 10-acre parcel. This land is used for residential, industrial, commercial, construction, institutional, public administration, railroad and other transportation yards, cemeteries, airports, golf courses, sanitary landfills, sewage treatment, water control structures, and other developed purposes.
- **Other Land:** Land not included in any other mapping category. Common examples include low density rural developments; brush, timber, wetland, and riparian areas not suitable for livestock grazing; confined livestock, poultry or aquaculture facilities; strip mines, borrow pits; and waterbodies smaller than forty acres. Vacant and nonagricultural land surrounded on all sides by urban development and greater than 40 acres is mapped as Other Land.

### **Williamson Act**

The California Land Conservation Act of 1965, commonly referred to as the Williamson Act, is a non-mandated state program, administered by counties and cities to preserve agricultural land and discourage the premature conversion of agricultural land to urban uses. The act authorizes local governments and property owners to (voluntarily) enter into contracts to commit agricultural land to specified uses for 10 or more years. Once restricted, the land is valued for taxation based on its agricultural income rather than unrestricted market value, resulting in a lower tax rate for owners. In return, the owners guarantee that these properties remain under agricultural production for an initial 10-year period. The contract is renewed automatically unless the owner files a notice of nonrenewal, thereby maintaining a constant 10-year contract.

### **Z'berg-Nejedly Forest Practice Act**

The Z'berg-Nejedly Forest Practice Act of 1973 established a set of rules known as the Forest Practice Rules to be applied to forest management-related activities (e.g., timber harvests, timberland conversions, fire hazard removal) on privately owned timberlands in California. They are intended to ensure that timber harvesting is conducted in a manner that will preserve and protect fish, wildlife, forests, and streams. Under the Forest Practice Act, a Timber Harvesting Plan is submitted to the California Department of Forestry and Fire Protection by the landowner outlining what timber is proposed to be harvested, the harvesting method, and the steps that will be taken to prevent damage to the environment.

## **C.2.3 Regional and Local**

### **Town of Paradise 1994 General Plan**

The *Town of Paradise 1994 General Plan* includes the following agriculture-related policies:

- **Policy OCEP-31:** Retention of agricultural lands within the town limits should be encouraged while recognizing that changing circumstances may necessitate a change in use for some lands.
- **Policy OCEP-32:** Significantly important agricultural and timber production lands, particularly those located in the secondary and tertiary planning areas, shall be identified and protected from incompatible development.

## Butte County General Plan 2030

The *Butte County General Plan 2030* includes the following policies related to agriculture and forestry resources:

- **Policy LU-P13.1:** Maintain the Chico Area Greenline, which shall be located as shown on Figure LU-7.
- **Policy LU-P13.3:** Recognize the Chico Area Greenline as the boundary between the “Urban Side of the Chico Area Greenline” and the “Agricultural Side of the Chico Area Greenline.”
- **Policy LU-P13.7:** Conserve and protect for agricultural use the lands in the Chico area that are situated on the Agricultural Side of the Chico Area Greenline.
- **Policy COS-P11.3:** Urban development shall not limit the financial sustainability of timber operations.
- **Policy COS-P11.6:** Public facilities shall generally not be located in the Timber Production Zone if the facility would have a significant adverse effect on the production of timber unless alternative sites for an essential public use cannot be located elsewhere.

## Chico 2030 General Plan

The *Chico 2030 General Plan* includes the following policies related to agriculture:

- **Policy OS-5.1, Urban/Rural Boundary:** Protect agriculture by maintaining the Greenline between urban and rural uses.
- **Policy OS-5.2, Agricultural Resources:** Minimize conflicts between urban and agricultural uses by requiring buffers or use restrictions.
  - **Action OS-5.2.1, Agricultural Buffers:** Require buffers for development adjacent to active agricultural operations along the Greenline to reduce incompatibilities and explore opportunities for public uses within buffers.

## C.3 Air Quality

This section summarizes the federal, state, and local laws, regulations, orders, policies, and plans that are relevant to the analysis of air quality in the EIR, Section 3.3.

### C.3.1 Federal

#### Federal Clean Air Act and National Ambient Air Quality Standards

The Federal Clean Air Act (FCAA; 42 USC Section 7401), as amended, is the primary federal law governing air quality. The FCAA is regulated by the USEPA, which sets standards for the concentration of pollutants in the air. At the federal level, these standards are called National Ambient Air Quality Standards (NAAQS). NAAQS standards have been established for six criteria air pollutants that have been linked to potential health concerns: CO, NO<sub>2</sub>, O<sub>3</sub>, SO<sub>2</sub>, PM<sub>10</sub>, PM<sub>2.5</sub>. In addition, national standards exist for Pb. The NAAQS standards are set at levels that protect public

health with a margin of safety and are subject to periodic review and revision. The federal regulatory schemes also cover TACs.

The FCAA requires USEPA to designate areas as attainment, nonattainment, or maintenance (an area that was previously nonattainment and is currently attainment) for each criteria pollutant based on whether the NAAQS have been achieved. The federal standards are summarized in Table C.3-1.

The FCAA requires each state to prepare an air quality control plan referred to as the State Implementation Plan (SIP). USEPA is responsible for implementing the programs established under the FCAA, programs such as establishing and reviewing the federal ambient air quality standards and judging the adequacy of SIPs. If a state contains areas that violate the national standards, the FCAA requires the State to revise its SIP to incorporate additional control measures to reduce air pollution. USEPA has authorized States such as California with air programs that meet or exceed federal standards to implement many of the federal programs while retaining an oversight role.

**Table C.3-1. State and Federal Ambient Air Quality Attainment Status for Butte County**

Pollutant	Averaging Time	State Standard <sup>1</sup>	Federal Standard <sup>2</sup>	SVAB Attainment Status
O <sub>3</sub> <sup>3</sup>	1 hour 8 hours	0.09 ppm 0.070 ppm	--- 0.070 ppm (4 <sup>th</sup> highest in 3 years)	Federal: Nonattainment (8-hour) State: Nonattainment (1-hour and 8-hour)
CO	1 hour 8 hours 8 hours (Lake Tahoe)	20 ppm 9.0 ppm 6 ppm	35 ppm 9 ppm ---	Federal: Attainment State: Attainment
PM <sub>10</sub> <sup>4</sup>	24 hours Annual	50 µg/m <sup>3</sup> 20 µg/m <sup>3</sup>	150 µg/m <sup>3</sup> ---	Federal: Attainment (24-hour) No Standard (Annual) State: Nonattainment (24-hour) Attainment (Annual)
PM <sub>2.5</sub> <sup>4</sup>	24 hours Annual Secondary Standard (annual)	--- 12 µg/m <sup>3</sup> ---	35 µg/m <sup>3</sup> 12.0 µg/m <sup>3</sup> 15 µg/m <sup>3</sup> (98 <sup>th</sup> percentile over 3 years)	Federal: Attainment (24-hour and Annual) State: No standard (24-hour) Nonattainment (Annual)
NO <sub>2</sub> <sup>5</sup>	1 hour Annual	0.18 ppm 0.030 ppm	100 ppb (98 <sup>th</sup> percentile over 3 years) 0.053 ppm	Federal: Attainment State: Attainment
SO <sub>2</sub> <sup>6</sup>	1 hour 3 hours 24 hours Annual Arithmetic	0.25 ppm --- 0.04 ppm ---	75 ppb (99 <sup>th</sup> percentile over 3 years) 0.5 ppm 0.14 ppm <sup>6</sup>	Federal: Attainment State: Attainment

Pollutant	Averaging Time	State Standard <sup>1</sup>	Federal Standard <sup>2</sup>	SVAB Attainment Status
	Mean		0.03 ppm <sup>6</sup>	
Pb <sup>7,8</sup>	Monthly Calendar Quarter Rolling 3-month average	1.5 µg/m <sup>3</sup> ---- ----	---- 1.5 µg/m <sup>3</sup> <sup>7</sup> 0.15 µg/m <sup>3</sup>	Federal: Attainment State: Attainment
Sulfate	24 hours	25 µg/m <sup>3</sup>	No federal standards	Federal: N/A State: Attainment
Hydrogen Sulfide	1 hour	0.03 ppm	No federal standards	Federal: N/A State: Unclassified
Vinyl Chloride <sup>7</sup>	24 hours	0.01 ppm	No federal standards	Federal: N/A State: No designation
Visibility Reducing Particles <sup>9</sup>	8 hours	See footnote 9	No federal standards	Federal: N/A State: Unclassified

Sources: ARB 2016, ARB 2021, BCAQMD 2018.

- <sup>1</sup> California standards for ozone, carbon monoxide (except 8-hour Lake Tahoe), sulfur dioxide (1 and 24 hour), nitrogen dioxide, and particulate matter (PM<sub>10</sub>, PM<sub>2.5</sub>, and visibility reducing particles), are values that are not to be exceeded. All others are not to be equaled or exceeded. California ambient air quality standards are listed in the Table of Standards in Section 70200 of Title 17 of the California Code of Regulations.
- <sup>2</sup> National standards (other than ozone, particulate matter, and those based on annual arithmetic mean) are not to be exceeded more than once a year. The ozone standard is attained when the fourth highest 8-hour concentration measured at each site in a year, averaged over 3 years, is equal to or less than the standard. For PM<sub>10</sub>, the 24-hour standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m<sup>3</sup> is equal to or less than one. For PM<sub>2.5</sub>, the 24-hour standard is attained when 98 percent of the daily concentrations, averaged over 3 years, are equal to or less than the standard. Contact the USEPA for further clarification and current national policies.
- <sup>3</sup> On October 1, 2015, the national 8-hour ozone primary and secondary standards were lowered from 0.075 ppm to 0.070 ppm.
- <sup>4</sup> On December 14, 2012, the national annual PM<sub>2.5</sub> primary standard was lowered from 15 µg/m<sup>3</sup> to 12.0 µg/m<sup>3</sup>. The existing national 24-hour PM<sub>2.5</sub> standards (primary and secondary) were retained at 35 µg/m<sup>3</sup>, as was the annual secondary standard of 15 µg/m<sup>3</sup>. The existing 24-hour PM<sub>10</sub> standards (primary and secondary) of 150 µg/m<sup>3</sup> also were retained. The form of the annual primary and secondary standards is the annual mean, averaged over 3 years.
- <sup>5</sup> To attain the 1-hour national standard, the 3-year average of the annual 98th percentile of the 1-hour daily maximum concentrations at each site must not exceed 100 ppb. Note that the national 1-hour standard is in units of parts per billion (ppb). California standards are in units of parts per million (ppm). To directly compare the national 1-hour standard to the California standards the units can be converted from ppb to ppm. In this case, the national standard of 100 ppb is identical to 0.100 ppm.
- <sup>6</sup> On June 2, 2010, a new 1-hour SO<sub>2</sub> standard was established, and the existing 24-hour and annual primary standards were revoked. To attain the 1-hour national standard, the 3-year average of the annual 99th percentile of the 1-hour daily maximum concentrations at each site must not exceed 75 ppb. The 1971 SO<sub>2</sub> national standards (24-hour and annual) remain in effect until one year after an area is designated for the 2010 standard, except that in areas designated nonattainment for the 1971 standards, the 1971 standards remain in effect until implementation plans to attain or maintain the 2010 standards are approved. Note that the 1-hour national standard is in units of parts per billion (ppb). California standards are in units of parts per million (ppm). To directly compare the 1-hour national standard to the California standard the units can be converted to ppm. In this case, the national standard of 75 ppb is identical to 0.075 ppm.

- <sup>7</sup> The ARB has identified lead and vinyl chloride as 'toxic air contaminants' with no threshold level of exposure for adverse health effects determined. These actions allow for the implementation of control measures at levels below the ambient concentrations specified for these pollutants.
- <sup>8</sup> The national standard for lead was revised on October 15, 2008, to a rolling 3-month average. The 1978 lead standard (1.5 µg/m<sup>3</sup> as a quarterly average) remains in effect until one year after an area is designated for the 2008 standard, except that in areas designated nonattainment for the 1978 standard, the 1978 standard remains in effect until implementation plans to attain or maintain the 2008 standard are approved.
- <sup>9</sup> In 1989, the ARB converted both the general statewide 10-mile visibility standard and the Lake Tahoe 30-mile visibility standard to instrumental equivalents, which are "extinction of 0.23 per kilometer" and "extinction of 0.07 per kilometer" for the statewide and Lake Tahoe Air Basin standards, respectively.

NAAQS = National Ambient Air Quality Standards; DPM = diesel particulate matter; CO = carbon monoxide; NO<sub>2</sub> = nitrogen dioxide; NO<sub>x</sub> = oxides of nitrogen; O<sub>3</sub> = ozone; Pb = lead; PM<sub>2.5</sub> = particles of 2.5 micrometers and smaller; PM<sub>10</sub> = particles of 10 micrometers and smaller; SO<sub>2</sub> = sulfur dioxide; SO<sub>x</sub> = sulfur oxides; µg/m<sup>3</sup> = micrograms per cubic meter; ppb = parts per billion; ppm = parts per million; SVAB = Sacramento Valley Air Basin; SIP = state implementation plan; TACs = toxic air contaminants, N/A = not applicable

## Non-Road Diesel New Engine and Fuel Standards

The USEPA has adopted multiple tiers of emission standards for non-road (or off-road) diesel engines. The non-road standards cover mobile non-road diesel engines of all sizes used in a wide range of construction, agricultural and industrial equipment. The first federal standards, Tier 1, were adopted in 1994. Tier 2 standards were adopted in 2001, Tier 3 in 2006, and final Tier 4 standards in 2014. The federal emission standards for non-road diesel engines are established in advancing tiers that progressively become more stringent (i.e., the higher the tier, the lower the emissions). Currently, the most stringent is Tier 4. The Tier 4 emissions standards have more stringent NO<sub>x</sub>, particulate matter, and hydrocarbon limits than the lower tiers. The CO emission limits for Tier 4 standards remain unchanged from the Tier 2 and Tier 3 standards.

## National Emission Standards for Hazardous Air Pollutants

National Emission Standards for Hazardous Air Pollutants are stationary source standards for hazardous air pollutants (40 CFR 63). Hazardous air pollutants are those pollutants that are known or suspected to cause cancer or other serious health effects, such as reproductive effects or birth defects, or adverse environmental effects (USEPA 2021d).

### C.3.2 State

#### California Clean Air Act and California Ambient Air Quality Standards

In California, the California Clean Air Act (CCAA) is administered by the ARB at the state level and by the air quality management districts and air pollution control districts at the regional and local levels (air districts). ARB is responsible for meeting the state requirements of the CCAA, administering the CCAA, establishing the California Ambient Air Quality Standards (CAAQS), and establishing motor vehicle emissions standards. The CCAA requires all air districts in the state to endeavor to achieve and maintain the CAAQS.

CAAQS are generally more stringent than the corresponding federal standards and incorporate additional standards for sulfates, hydrogen sulfide, vinyl chloride, and visibility-reducing particles. ARB is responsible for setting emission standards for vehicles sold in California and for other emission sources, such as consumer products and certain off-road equipment. ARB also establishes passenger vehicle fuel specifications. ARB oversees the functions of air districts, which in turn

administer air quality activities at the regional and county levels. The state standards are summarized in Table C.5-1.

The CCAA requires ARB to designate areas in California as either attainment or nonattainment for each criteria pollutant based on whether the CAAQS have been achieved. Under the CCAA, areas are designated as nonattainment for a pollutant if air quality data show that a state standard for the pollutant was violated at least once during the previous 3 calendar years. Exceedances that are affected by highly irregular or infrequent events are not considered violations of a state standard and are not used as a basis for designating areas as nonattainment.

### **California State Implementation Plan**

The 1990 amendments to the FCAA set new deadlines for attainment based on the severity of the pollution problem and launched a comprehensive planning process for attaining the NAAQS. The promulgation of the national 8-hour ozone standard and the fine particulate matter standards in 1997 resulted in additional statewide air quality planning efforts. In response to new federal regulations, SIPs began to address ways to improve visibility in national parks and wilderness areas. SIPs are not single documents, but rather a compilation of new and previously submitted plans, programs, district rules, state regulations, and federal controls.

Many of California's SIPs rely on the same core set of control strategies, including emission standards for cars and heavy trucks, fuel regulations, and limits on emissions from consumer products. State law makes ARB the lead agency for all purposes related to the SIPs. Local air districts and other agencies prepare SIP elements and submit them to ARB for review and approval. ARB then forwards SIP revisions to EPA for approval and publication in the *Federal Register*. CFR Title 40, Chapter I, Part 52, Subpart F, Section 52.220 lists all of the items that are included in the California SIP.

### **Health Impacts of Regional Criteria Air Pollutants**

In December 2018, the California Supreme Court released a decision in *Sierra Club v. County of Fresno*, 6 Cal. 5th 502, also known as the Friant Ranch Case, finding that CEQA requires that a connection be drawn between project emissions and human health impacts.

As explained in the amicus curiae brief submitted by the San Joaquin Valley Air Pollution Control District for the Friant Ranch case, air district significance thresholds were set at emissions levels tied to the region's attainment status; they are emissions levels at which stationary pollution sources permitted by air districts must offset their emissions and CEQA projects must use feasible mitigation measures, and they are not intended to indicate any localized human health impact that a project may have. Therefore, a project's exceedance of the air district's mass regional emission thresholds does not necessarily indicate that the project would cause or contribute to the exposure of sensitive receptors to ground-level concentrations of ozone greater than health-protective levels.

As suggested in the amicus curiae brief submitted for the Friant Ranch case, given the complexity of ozone formation and the current state of environmental science modeling, it is infeasible to determine whether, or the extent to which, a single project's emissions of precursors (NOX and ROG) would result in the formation of secondary ground-level ozone, and to identify the geographic and temporal distribution of such secondary formed emissions. Furthermore, available models today are designed to determine regional, population-wide health impacts, and cannot accurately quantify

ozone-related health impacts caused by project-related NOX or ROG emissions on the local (project) level. Therefore, it is infeasible to connect ozone precursor emissions at a project level to ozone-related health impacts.

### **Mobile Source Toxics and Toxic Air Contaminants**

California regulates TACs primarily through Assembly Bill (AB) 1807, Toxic Air Contaminant Identification and Control Act (Tanner Act) and AB 2588, Air Toxics “Hot Spots” Information and Assessment Act of 1987 (Hot Spots Act). The Tanner Act sets forth a formal procedure for ARB to designate substances as toxic air contaminants (TAC). Once a TAC is identified, ARB adopts an “airborne toxics control measure” for sources that emit designated TACs. If there is a safe threshold for a substance (a point below which there is no toxic effect), the control measure must reduce exposure to below that threshold. If there is no safe threshold, the measure must incorporate best available toxics control technology to minimize emissions.

Under the Hot Spots Act, TAC emissions from individual facilities are quantified and prioritized by the air quality management district or air pollution control district. High-priority facilities are required to perform a health risk assessment and, if specific thresholds are exceeded, are required to communicate the results to the public in the form of notices and public meetings.

The ARB adopted a comprehensive Diesel Risk Reduction Plan in September 2000 to reduce emissions from both new and existing diesel-fueled engines and vehicles. The ARB has also adopted regulations to reduce emissions from both on-road and off-road heavy-duty diesel vehicles (for example, equipment used in construction). These regulations, known as airborne toxic control measures, reduce the idling of school buses and other commercial vehicles, control DPM, and limit the emissions of ocean-going vessels in California waters. The regulations also include measures to control emissions of air toxics from stationary sources.

### **C.3.3 Regional and Local**

#### **Butte County Air Quality Management District**

BCAQMD is the air quality regulating authority in Butte County, which adopts and enforces controls on stationary sources of air pollutants through its permit and inspection programs. BCAQMD is responsible for ensuring that NAAQS and CAAQS are not violated within Butte County. Responsibilities of BCAQMD include monitoring air quality, preparing clean air plans, and responding to citizen complaints concerning air quality.

*Air Quality Attainment Plan.* The *Northern Sacramento Valley Planning Area 2018 Triennial Air Quality Attainment Plan* (2018 Air Quality Attainment Plan) (Sacramento Valley Air Quality Engineering and Enforcement Professionals [SVAQEEP] 2018) is the most recent air quality attainment plan applicable to Butte County. The air districts for the counties located in the northern portion of the Sacramento Valley together establish the Northern Sacramento Valley Planning Area. The Northern Sacramento Valley Planning Area air districts were designated as nonattainment for the ozone CAAQS and agreed to jointly prepare the 2018 Air Quality Attainment Plan. The plan assesses the progress made in implementing the previous triennial update and proposes modifications to the strategies necessary to attain the CAAQS by the earliest practicable date. The 2018 Air Quality Attainment Plan includes an assessment of progress towards achieving the control

measure commitments in the previous triennial plan, a summary of the last 3 years of ozone data, a comparison of the expected versus actual emission reductions for each measure committed to in the previous triennial plan, updated control measure commitments, and updated growth rates of population, industry, and vehicle related emissions.

Regulations and Rules. The BCAQMD develops regulations to improve air quality and protect the health and welfare of Butte County residents and their environment. BCAQMD rules and regulations (BCAQMD 2014) applicable to the Proposed Project include, but are not limited to, the following:

- **Regulation II, Rule 200, Nuisance:** No person shall discharge from any non-vehicular source such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health, or safety of any such persons or the public or which cause or have a natural tendency to cause injury or damage to business or property.
- **Regulation II, Rule 201, Visible Emissions:** A person shall not discharge into the atmosphere from any single source of emission whatsoever, any air contaminant for a period or periods aggregating more than three minutes in any one hour which is:
  - As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, as published by the U.S. Bureau of Mines, or
  - Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described above.
- **Regulation II, Rule 202, Particulate Matter Concentration:** A person shall not discharge into the atmosphere from any source particulate matter in excess of 0.3 grains per cubic foot of gas at standard conditions.
- **Regulation II, Rule 205, Fugitive Dust Emissions:** No person shall cause or allow the emissions of fugitive dust from any active operation, open storage pile, or disturbed surface area such that:
- **Regulation IV, Rule 400, Permit Requirements:** Requires any person constructing, altering, or operating a source that emits or may emit air contaminants to obtain an Authority to Construct or Permit to Operate from the Air Pollution Control Officer and to provide an orderly procedure for application, review, and authorization of new sources and of the modification and operation of existing sources of air pollution.
- **Regulation IV, Rule 430, State New Source Rule:** Establishes pre-construction review requirements for new and modified stationary sources of air pollution for use of Best Available Control Technology (BACT), offsets, and analysis of air quality impacts, and to ensure that the operation of such sources does not interfere with the attainment or maintenance of ambient air quality standards and complies with all other applicable BCAQMD Rules and Regulations.

CEQA Guidelines. The *CEQA Air Quality Handbook* (BCAQMD 2014) includes analysis requirements for construction and operational emissions. Table C.3-2 summarizes BCAQMD's thresholds for criteria air pollutants and TACs. Thresholds for criteria air pollutants are based upon

BCAQMD's Rule 430, State New Source Review, which incorporates stationary permitting significance thresholds for ambient air quality standards as required by California Health and Safety Code Section 40918. BCAQMD has only established thresholds of significance for criteria air pollutants; while it provides guidance with regards to impacts related to TACs.

**Table C.3-2. BCAQMD Thresholds of Significance**

Pollutant	Construction-related	Operational-Related
ROG	137 lb/day, not to exceed 4.5 tons/year	25 lb/day
NO <sub>x</sub>	137 lb/day, not to exceed 4.5 tons/year	25 lb/day
PM <sub>10</sub>	80 lb/day	80 lb/day
New Source TAC Risk and Hazards – Individual Project	Same as Recommended Operational Thresholds	No Adopted Threshold. Recommended Thresholds: Increased Cancer Risk > 10 in one million Increased Non-Cancer Risk of > 1.0 Hazard Index (Chronic or Acute) Ambient Diesel PM <sub>2.5</sub> > 0.3 µg/m <sup>3</sup> annual average Zone of Influence: 1,000-foot radius from parcel(s) of source or receptor
New Source TAC Risk and Hazards – Cumulative Impacts	Same as Recommended Operational Thresholds	No Adopted Threshold. Recommended Thresholds: Cancer Risk > 10 in a million from all local sources Non-Cancer Risk > 1.0 Hazard Index (from all local sources – chronic) Diesel PM <sub>2.5</sub> > 0.8 µg/m <sup>3</sup> annual average Zone of Influence: 1,000-foot radius from parcel(s) of sources or receptors

Source: BCAQMD 2014

Notes: ROG = reactive organic gases, NO<sub>x</sub> = nitrogen oxides, PM<sub>10</sub> = particles of 10 micrometers and smaller, PM<sub>2.5</sub> = particles of 2.5 micrometers and smaller, TAC = toxic air contaminant, lb = pounds, µg/m<sup>3</sup> = micrograms per cubic meter

**Odors.** Offensive or strong odors may come from a wide variety of temporary and more or less permanent sources: exhaust from heavy equipment, garbage dumpsters, restaurants, animal boarding facilities, feed lots and general agricultural operations, food processing, compost/green waste and wastewater treatment facilities, rendering plants, various industrial processes, landfills, painting/coating operations, and others.

Pollutants associated with odors such as sulfur compounds and methane can be a nuisance to healthy people and can trigger asthmatic conditions in people with sensitive airways. Given the somewhat subjective nature of human response to odors, BCAQMD does not provide quantitative or formulaic methods to evaluate the presence of an impact. While most odors are highly dispersive, the significance of an odor impact is generally related to its intensity with distance from the source. Table C.3-3 presents BCAQMD's screening distances for various odors sources.

**Table C.3-3. BCAQMD Screening Levels for Potential Odor Sources**

Type of Facility	Screening Distance (miles)
Wastewater Treatment Plant	2
Wastewater Pumping Facilities	1
Sanitary Landfill	1
Transfer Station	1

Type of Facility	Screening Distance (miles)
Composting Facility	2
Petroleum Refinery	2
Asphalt Batch Plant	2
Chemical Manufacturing	1
Fiberglass Manufacturing	1
Painting/Coating Operations	1
Rendering Plant	4
Coffee Roaster	1
Food Processing Facility	1
Feed Lot/Dairy	1
Green Waste and Recycling Operations	2
Metal Smelting Plants	1

Source: BCAQMD 2014

### Town of Paradise 1994 General Plan

The Open Space/Conservation/Energy Element of the *Town of Paradise 1994 General Plan* includes the following goals and objective pertaining to air quality:

- **Goal CG-5:** Maintain and improve local and regional air quality.
- **Objective OCEO-8:** Comply with the standards, provisions, and objectives of the Butte County Air Quality Attainment Plan.

### Butte County General Plan 2030

The *Butte County General Plan 2030* includes the following policies related to air quality:

- **Policy COS-P5.2:** Developers shall implement best available mitigation measures to reduce air pollutant emissions associated with the construction and operation of development projects.
- **Policy COS-P5.6:** New sources of toxic air pollutants shall comply with the permitting requirements of the BCAQMD and Section 44300 et. Seq. of the California Health and Safety Code.

### Chico 2030 General Plan

The *Chico 2030 General Plan* includes the following policy and actions related to air quality:

- **Policy OS-4.1, Air Quality Standards:** Work to comply with state and federal ambient air quality standards and to meet mandated annual air quality reduction targets.
  - **Action OS-4.1.1, Air Quality Impact Mitigation:** During project and environmental review, evaluate air quality impacts and incorporate applicable mitigations, including payment of air quality impact fees, to reduce impacts consistent with the BCAQMD's CEQA Air Quality Handbook.

## C.4 Biological Resources

This section identifies the federal, state, nongovernmental agency, and local laws, regulations, orders, policies, and plans that are relevant to the analysis of biological resources in the EIR, Section 3.4.

### C.4.1 Federal

#### Endangered Species Act

The Endangered Species Act (ESA) provides protective measures for federally listed threatened and endangered species, including their habitats, from unlawful take (16 United States Code [USC] §§ 1531–1544). The ESA defines take to mean “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” Title 50, § 222, of the CFR (50 CFR § 222) further defined harm to include an act that kills or injures fish or wildlife via significant habitat modification or degradation.

ESA Section 7(a)(1) requires federal agencies to use their authority to further the conservation of listed species. ESA Section 7(a)(2) requires consultation with the United States Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) if a federal agency undertakes, funds, permits, or authorizes any action that may impact endangered or threatened species or designated critical habitat. For projects that may result in the incidental take of threatened or endangered species, or critical habitat, and that lack a federal nexus, a Section 10(a)(1)(b) incidental take permit may be obtained from USFWS and/or NMFS.

#### Clean Water Act

The Federal Water Pollution Control Act of 1948 was the first major United States law to address water pollution. Upon sweeping amendments made in 1972, the law became commonly known as the Clean Water Act (CWA) (33 USC § 1251). The CWA established the structure for regulating discharge of pollutants into waters of the United States and regulating quality standards for surface waters.

#### Clean Water Act Section 404

CWA Section 404 (33 USC § 1344) enables regulation of the discharge of dredged or fill material into waters of the United States, including wetlands. The basic premise of the program is that no discharge of dredged or fill material may be permitted if: (1) a practicable alternative exists that is less damaging to the aquatic environment or (2) the nation’s waters would be significantly degraded. To comply with these objectives, a permittee must document the measures taken to avoid and minimize impacts on waters of the United States and provide compensatory mitigation for any unavoidable impacts.

#### Clean Water Act Section 401

Under CWA Section 401 (33 USC § 1341), federal agencies are not authorized to issue a permit or license for any activity that may result in discharges to waters of the United States, unless a state or tribe where the discharge originates either grants, waives or denies CWA Section 401 certification. Granting certification, with or without conditions, allows the federal permit or license to be issued and

remain consistent with any conditions set forth in the CWA Section 401 certification. Decisions made by states or tribes are based on the proposed project's compliance with USEPA water quality standards as well as applicable effluent limitations guidelines, new source performance standards, toxic pollutant restrictions, and any other appropriate requirements of state or tribal law. In California, the State Water Resources Control Board is the primary regulatory authority for CWA Section 401 requirements (additional details are provided in the following subsections).

### **Section 14 of the Rivers and Harbors Appropriation Act of 1899, Section 408**

Under Section 408 (33 USC § 408), any use or alteration of a Civil Works project is subject to the approval of USACE. This requirement was established in Section 14 of the Rivers and Harbors Act of 1899. Section 408 provides that USACE may grant permission for another party to alter a Civil Works project upon a determination that the alteration proposed will not be injurious to the public interest and will not impair the usefulness of the Civil Works project.

### **Magnuson-Stevens Fishery Conservation and Management Act**

Magnuson-Stevens Act of 1976 (revised in 1996 and reauthorized 2007) is the primary law governing marine fisheries management in US federal waters. The primary objectives of the Magnuson-Stevens Act are to prevent overfishing, rebuild overfished stocks, increase long-term economic and social benefits, and ensure a safe and sustainable supply of seafood. To this end, the federal government is responsible for considering direct and indirect habitat losses, or other impacts that may result in a diminished capacity to support existing populations and stocks.

Among other items, the Sustainable Fisheries Act revision in 1996 specifically outlined the responsibility of the United States to conserve and facilitate long-term protection of EFH, defined as "*those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.*" (16 U.S.C. 1801). The 1996 revision also designated HAPCs, which are subsets of EFH for more focused consideration.

Under the act, federal agencies that fund, permit, or carry out activities that may adversely impact EFH or HAPCs are required to consult with NMFS regarding the potential adverse effects of Project activities, as well as respond in writing to NMFS Project-specific recommendations.

### **Migratory Bird Treaty Act of 1918**

Migratory birds are protected under the Migratory Bird Treaty Act of 1918 (MBTA) (16 USC §§ 703–711). The MBTA makes it unlawful to take, possess, buy, sell, purchase, or barter any migratory bird listed in 50 CFR § 10, including feathers or other parts, nests, eggs, or products, except as allowed by implementing regulations (50 CFR § 21). Solicitor's Opinion M 37050 was released on December 22, 2017, stating the MBTA does not prohibit incidentally killing birds. Thus, the statute's prohibitions on pursuing, hunting, capturing, taking, killing, or attempting to do any of the aforementioned, apply only to affirmative actions that have as their purpose the taking or killing of migratory birds, their nests, or their eggs.

### **Executive Order 13112 – Invasive Species**

Executive Order 13112 directs all federal agencies to refrain from authorizing, funding, or carrying out actions or projects that may spread invasive species. The order further directs federal agencies

to prevent the introduction of invasive species, control and monitor existing invasive species populations, restore native species to invaded ecosystems, research and develop prevention and control methods for invasive species, and promote public education on invasive species. As part of the proposed action, USFWS and USACE would issue permits and, therefore, would be responsible for ensuring that the proposed action complies with Executive Order 13112 and does not contribute to the spread of invasive species.

### **Executive Order 11990 – Protection of Wetlands**

Executive Order 11990 (42 Federal Register [FR] 26961) requires federal agencies to provide leadership and take action to minimize destruction, loss, or degradation of wetlands and to preserve and enhance the natural qualities of these lands. Federal agencies are required to avoid undertaking or providing support for new construction located in wetlands unless 1) no practicable alternative exists and 2) all practical measures have been taken to minimize harm to wetlands.

### **C.4.2 State**

#### **California Endangered Species Act**

Under the California Endangered Species Act (CESA), the California Department of Fish and Wildlife (CDFW) is responsible for maintaining a list of endangered and threatened species (Fish and Game Code [FGC] § 2070). CDFW also maintains a list of candidate species, which are species under formal review for potential addition to the list of endangered or threatened species. And CDFW maintains a list of species of special concern, which are species that may be added to the list of candidate species.

Pursuant to the requirements of the CESA, an agency reviewing a proposed project within its jurisdiction must determine whether any state-listed endangered or threatened species may be present and determine whether the proposed project will have a potentially significant impact on such species. In addition, CDFW encourages informal consultation on any proposed project that may impact a candidate species.

Proposed project-related impacts on species on the CESA endangered or threatened list would be considered significant. State-listed species are fully protected under the mandates of the CESA. Take of protected species incidental to otherwise lawful management activities may be authorized under FGC Section 206.591. Authorization from CDFW would be in the form of an incidental take permit.

#### **California Fish and Game Code – Native Plant Protection Act**

The Native Plant Protection Act (FGC §§ 1900–1913) prohibits the taking, possession, or sale within the state of any plants with a state designation of rare, threatened, or endangered as defined by CDFW. An exception in the act allows landowners, under specified circumstances, to take listed plant species, if they first notify CDFW and give that state agency at least 10 days to retrieve the plants before they are plowed under or otherwise destroyed (FGC § 1913). Project impacts on these species are not considered significant unless the species are known to have a high potential to occur within the area of disturbance associated with construction of the proposed project.

### California Fish and Game Code §§ 3503 and 3503.5

Sections 3503 and 3503.5 of the FGC provide regulatory protection to resident and migratory birds and all birds of prey within the state of California, including the prohibition of the taking of nests and eggs, unless otherwise provided for by the FGC. Specifically, these sections of the FGC make it unlawful to take, possess, or needlessly destroy the nests or eggs of any bird, except as otherwise provided by this code.

### California Fish and Game Code – Fully Protected Species

California statutes afford fully protected status to several specifically identified birds, mammals, reptiles, and amphibians. These species cannot be taken, even with an incidental take permit. FGC § 3505 makes it unlawful to take “any egret or egret, osprey, bird of paradise, goura, numidi, or any part of such a bird”. FGC § 3511 protects from take the following fully protected birds: 1) American peregrine falcon (*Falco peregrinus anatum*); 2) brown pelican (*Pelecanus occidentalis*); 3) California black rail (*Laterallus jamaicensis coturniculus*); 4) California clapper rail (*Rallus longirostris obsoletus*); 5) California condor (*Gymnogyps californianus*); 6) California least tern (*Sterna albifrons browni*); 7) golden eagle (*Aquila chrysaetos*); 8) greater sandhill crane (*Grus canadensis tabida*); 9) light-footed clapper rail (*Rallus longirostris levipes*); 10) southern bald eagle (*Haliaeetus leucocephalus leucocephalus*); 11) trumpeter swan (*Cygnus buccinator*); 12) white-tailed kite (*Elanus leucurus*); and 13) Yuma clapper rail (*Rallus longirostris yumanensis*).

FGC § 4700 identifies the following fully protected mammals that cannot be taken: 1) Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*); 2) bighorn sheep (*Ovis canadensis*), except Nelson bighorn sheep (*Ovis canadensis nelsoni*); 3) Guadalupe fur seal (*Arctocephalus townsendi*); 4) ring-tailed cat (*Bassariscus* sp.); 4) Pacific right whale (*Eubalaena sieboldi*); 6) salt-marsh harvest mouse (*Reithrodontomys raviventris*); 7) southern sea otter (*Enhydra lutris nereis*); and 8) wolverine (*Gulo gulo*).

FGC § 5050 protects from take the following fully protected reptiles and amphibians: 1) blunt-nosed leopard lizard (*Crotaphytus wislizenii silus*); 2) San Francisco garter snake (*Thamnophis sirtalis tetrataenia*); 3) Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*); 4) limestone salamander (*Hydromantes brunus*); and 5) black toad (*Bufo boreas exsul*).

FGC § 5515 identifies certain fully protected fish that cannot lawfully be taken, even with an incidental take permit. The following species are protected in this fashion: 1) Colorado River squawfish (*Ptychocheilus lucius*); 2) thicktail chub (*Gila crassicauda*); 3) Mohave chub (*Gila mohavensis*); 4) Lost River sucker (*Catostomus luxatus*); 5) Modoc sucker (*Catostomus microps*); 6) shortnose sucker (*Chasmistes brevirostris*); 7) humpback sucker (*Xyrauchen texanus*); 8) Owens River pupfish (*Cyprinoden radiosus*); 9) unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*); and 10) rough sculpin (*Cottus asperimus*).

### California Wetlands and Other Policies

The California Natural Resources Agency and its various departments, which includes CDFW and the Department of Water Resources, do not authorize or approve projects that fill or otherwise harm or destroy coastal, estuarine, or inland wetlands. Exceptions may be granted if all the following conditions are met:

1. The project is water dependent.
2. No other feasible alternative is available.
3. The public trust is not adversely affected.
4. Adequate compensation is proposed as part of the project.

### **Porter-Cologne Water Quality Control Act**

The Porter-Cologne Water Quality Control Act (Porter-Cologne) of 1966 (California Water Code Section 13000 et seq.; CCR Title 23, Chapter 3, Subchapter 15) is the primary state regulation that addresses water quality. The requirements of the act are implemented by the State Water Resources Control Board at the state level and the Regional Water Quality Control Board (RWQCB) within the nine regions designated. The RWQCB carries out planning, permitting, and enforcement activities related to water quality in California. The RWQCB is responsible for controlling discharges to surface waters of the state by issuing waste discharge requirements or conditional waivers to waste discharge requirements. Waste discharge requirements are required by the RWQCB for activities that may affect water quality.

### **Clean Water Act Section 401 Water Quality Certification**

A CWA Section 401 water quality certification is required for activities that require CWA Section 404 permits issued by USACE. As mentioned above, the State Water Resources Control Board has primary regulatory authority for CWA Section 401 requirements for protecting water resources. Enforcement of these requirements is also handled by the nine RWQCBs depending upon location of the potential impacts. The Central Valley RWQCB will be responsible for CWA Section 401 for this project.

### **State Definition of Covered Waters**

Under California state law, waters of the state means “any surface water or groundwater, including saline waters, within the boundaries of the state” (California Water Code Section 13050). Therefore, water quality laws apply to both surface water and groundwater. After the United States Supreme Court decision in *Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers*, 531 U.S. 159 (2001), the Office of Chief Counsel of the State Water Resources Control Board released a legal memorandum confirming the state’s jurisdiction over isolated wetlands. The memorandum stated that under the California Porter-Cologne Water Quality Control Act (Porter-Cologne), discharges to wetlands and other waters of the state are subject to state regulation, and this includes isolated wetlands. In general, the State Water Resources Control Board regulates discharges to isolated waters in much the same way as they do for waters of the United States, but the regulation is via Porter-Cologne rather than the CWA.

### **C.4.3 Nongovernmental Agencies**

#### **California Native Plant Society**

The California Native Plant Society (CNPS) is a nongovernmental agency that classifies native plant species according to current population distribution and threat level concerning extinction. These data are used by the CNPS to create and maintain a list of native California plants that have low

numbers, limited distribution, or are otherwise threatened with extinction. This information is published in the Inventory of Rare and Endangered Vascular Plants of California (CNPS 2021). Potential impacts on populations of CNPS-listed plants receive consideration under CEQA review.

The following identifies the definitions of the CNPS listings:

- List 1A: Plants believed to be extinct
- List 1B: Plants that are rare, threatened, or endangered in California and elsewhere
- List 2: Plants that are rare, threatened, or endangered in California, but are more numerous elsewhere.

All of the plant species on Lists 1 and 2 meet the requirements of the Native Plant Protection Act Section 1901, Chapter 10, or FGC Section 2062 and Section 2067, and are eligible for state listing. Plants appearing on Lists 1 or 2 are considered to meet the criteria of CEQA Section 15380, and effects on these species are considered significant. Classifications for plants on List 3 (plants about which we need more information) and/or List 4 (plants of limited distribution), as defined by the CNPS, are not currently protected under state or federal law. Therefore, no detailed descriptions or impact analysis was performed on species with these classifications.

#### **C.4.4 Regional and Local**

##### **Town of Paradise 1994 General Plan**

The Open Space/Conservation/Energy Element of the *Town of Paradise 1994 General Plan* includes the following goals and policies pertaining to biological resources:

- **Goal OCEG-6:** Preserve and protect naturally sensitive areas, and significant natural features in Paradise such as trees, views, stream courses, wildlife habitat, and clean air.
- **Policy OCEP-15:** Existing, significantly important natural habitat areas having high value for birds and other wildlife should be preserved for future generations through careful land use planning and public participation.
- **Policy OCEP-16:** Area fisheries shall be protected, and the cooperation of responsible agencies shall be sought to assure minimum stream flow and restore fisheries.

##### **Town of Paradise Tree Preservation Ordinance**

The Town of Paradise Tree Preservation Ordinance (Chapter 8.12 of the Town's municipal code) intends to limit the indiscriminate destruction of healthy trees, preserve natural beauty, maintain healthy forests, and promote proper tree management through education. This section of code prohibits felling of any qualifying trees without a permit. Certain activities are exempt from the tree felling permit program including the reparation, maintenance, or installation of service lines and the establishment of a town-funded capital improvement project. Tree felling permits may be issued to accommodate certain activities including the repair or installation of a town-authorized wastewater treatment and disposal system.

## Butte County General Plan 2030

The Conservation and Open Space Element of the *Butte County General Plan 2030* includes the following goals and policies related to biological resources:

- **Goal COS-7:** Conserve and enhance habitat for protected species and sensitive biological communities.
- **Policy COS-P7.3:** Creeks shall be maintained in their natural state whenever possible, and creeks and floodways shall be allowed to function as natural flood protection features during storms.
- **Policy COS-P7.4:** New development projects shall mitigate their impacts in habitat areas for protected species through on- or off-site habitat restoration, clustering of development, and/or project design and through the provisions of the Butte Regional Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP) within the HCP/NCCP Planning Area, upon the future adoption of the HCP/NCCP.
- **Policy COS-P7.5:** No new development projects shall occur in wetlands or within significant riparian habitats, except within the Butte Regional Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP) Planning Area where such development is consistent with the conditions of the HCP/NCCP, upon the future adoption of the HCP/NCCP.
- **Policy COS-P7.6:** New development projects shall include setbacks and buffers along riparian corridors and adjacent to habitat for protected species, except where permitted in the Butte Regional Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP) Planning Area and where such development is consistent with the conditions of the HCP/NCCP, upon the future adoption of the HCP/NCCP.
- **Policy COS-P7.7:** Construction barrier fencing shall be installed around sensitive resources on or adjacent to construction sites. Fencing shall be installed prior to construction activities and maintained throughout the construction period.
- **Policy COS-P7.8:** Where sensitive on-site biological resources have been identified, construction employees operating equipment or engaged in any development-associated activities involving vegetation removal or ground disturbing activities in sensitive resource areas shall be trained by a qualified biologist and/or botanist who will provide information on the on-site biological resources (sensitive natural communities, special-status plant and wildlife habitats, nests of special-status birds, etc.), avoidance of invasive plant introduction and spread, and the penalties for not complying with biological mitigation requirements and other State and federal regulations.
- **Policy COS-P7.9:** A biologist shall be retained to conduct construction monitoring in and adjacent to all habitats for protected species when construction is taking place near such habitat areas.
- **Goal COS-8:** Maintain and promote native vegetation.

- **Policy COS-P8.1:** Native plant species shall be protected and planting and regeneration of native plant species shall be encouraged, wherever possible, in undisturbed portions of development sites.
- **Policy COS-P8.4:** Introduction or spread of invasive plant species during construction of development projects shall be avoided by minimizing surface disturbance; seeding and mulching disturbed areas with certified weed-free native mixes; and using native, noninvasive species in erosion control plantings.
- **Goal COS-9:** Protect identified special-status plant and animal species.
- **Policy COS-P9.1:** A biological resources assessment shall be required for any proposed development project where special-status species or critical habitat may be present. Assessments shall be carried out under the direction of Butte County. Additional focused surveys shall be conducted during the appropriate season if necessary. Upon adoption of the Butte Regional Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP), assessment requirements of the HCP/NCCP shall be implemented for development projects within the HCP/NCCP area.
- **Policy COS-P9.2:** If special-status plant or animal species are found to be located within a development site, proponents of the project shall engage in consultation with the appropriate federal, State and regional agencies and mitigate project impacts in accordance with State and federal law. Upon adoption of the Butte Regional Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP), mitigation requirements of the HCP/NCCP shall be implemented for development projects within the HCP/NCCP area. Examples of mitigation may include:
  - Design the proposed project to avoid and minimize impacts.
  - Restrict construction to specific seasons based on project-specific special-status species issues (e.g., minimizing impacts to special-status nesting birds by constructing outside of the nesting season).
  - Confine construction disturbance to the minimum area necessary to complete the work.
  - Mitigate for the loss of special-status species by purchasing credits at an approved conservation bank (if a bank exists for the species in question), funding restoration or habitat improvement projects at existing preserves in Butte County, or purchasing or donating mitigation lands of substantially similar habitat.
  - Maintain a minimum 100-foot buffer on each side of all riparian corridors, creeks and streams for special-status and common wildlife.
  - Establish setbacks from the outer edge of special-status species habitat areas.
  - Construct barriers to prevent compaction damage by foot or vehicular traffic.

### Chico 2030 General Plan

The Open Space and Environment Element of the *Chico 2030 General Plan* includes the following goals and policies related to biological resources:

- **Goal OS-1:** Protect and conserve native species and habitats.
- **Policy OS-1.1, Native Habitats and Species:** Preserve native species and habitat through land use planning, cooperation, and collaboration.
- **Policy OS-1.2, Regulatory Compliance:** Protect special-status plant and animal species, including their habitats, in compliance with all applicable state, federal and other laws and regulations.
- **Policy OS-2.5, Creeks and Riparian Corridors:** Preserve and enhance Chico’s creeks and riparian corridors as open space for their aesthetic, drainage, habitat, flood control, and water quality values.
- **Policy OS-2.6, Oak Woodlands:** Protect oak woodlands as open space for sensitive species and habitat.

### **City of Chico Tree Preservation Regulations**

Chapter 16.66 Tree Preservation Regulations of Chico’s municipal code requires that a tree removal permit be obtained from the director of the public works department before removing any trees within the city. A permit is not required for removal of a tree that presents an immediate hazard to life or property, as determined by the city manager, director, police chief, fire chief, public works director, community development director, urban forest manager, code enforcement officer, public utility companies, or their designees. This chapter of the code requires preparation of a tree protection plan that complies with the city’s “Best Practices Technical Manual: Tree Preservation Measures” prior to the issuance of demolition permits, grading permits, building permits, use permits, planned development permits, or parcel or tentative subdivision maps.

## **C.5 Cultural Resources**

This section identifies the federal, state, and local laws, regulations, orders, policies, and plans that are relevant to the analysis of cultural resources in the EIR, Section 3.5.

Section 3.5 includes references to the CEQA Guidelines Section 15064.5 and terminology such as “historic resource” and “archaeological resource,” which include in their definition “unique archaeological resources.” As such, the following regulations, plans, and/or policies provide relevant definitions and regulatory context for the impact discussion in Section 3.5.

### **C.5.1 Federal**

#### **National Historic Preservation Act**

Section 106 of the National Historic Preservation Act (NHPA) requires federal undertakings to consider the effects of the action on historic properties. Historic properties are defined by the Advisory Council on Historic Preservation (ACHP) regulations (36 Code of Federal Regulations [CFR] Part 800) and consist of any prehistoric or historical archaeological site, building, structure,

historic district, or object included in, or eligible for inclusion in, the National Register of Historic Places (NRHP) maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization that meet the National Register criteria (36 CFR Part 800.16[I]).

To determine whether an undertaking could affect NRHP-eligible properties, cultural resources (including archaeological, historical, and architectural properties) must be inventoried and evaluated for listing in the NRHP.

For projects involving a lead federal agency, cultural resource significance is evaluated in terms of eligibility for listing in the NRHP. For a property to be considered for inclusion in the NRHP, it must be at least 50 years old and meet the criteria for evaluation set forth in 36 CFR Part 60.4.

The quality of significance in American history, architecture, archaeology, engineering, and culture must be present in districts, sites, buildings, structures, and objects that possess integrity of design, setting, materials, workmanship, feeling, and association. They must also meet one or more of the four criteria for inclusion on the NRHP:

- Criterion A, Association with events that have made a significant contribution to the broad patterns of history;
- Criterion B, Association with the lives of persons significant in the past;
- Criterion C, Embodiment of distinctive characteristics of a type, period, or method of construction, the work of a master, high artistic values, or a significant and distinguishable entity whose components may lack individual distinction; or
- Criterion D, History of yielding, or the potential to yield, information important in prehistory or history.

If a cultural resources professional meeting the Secretary of Interior's Qualification Standards determines a particular resource meets one of these criteria, it is considered as an eligible historic property for listing in the NRHP. Among other criteria considerations, a property that has achieved significance within the last 50 years is not considered eligible for inclusion in the NRHP unless certain exceptional conditions are met.

### **Antiquities Act**

The Antiquities Act of 1906 (54 USC 320301–320303) provides for fines or imprisonment of any person convicted of appropriating, excavating, injuring, or destroying any historic or prehistoric ruin or monument or other object of antiquity that falls under the jurisdiction of the federal government.

### **Archaeological Resources Protection Act**

The Archaeological Resources Protection Act of 1979 (16 USC 470aa et seq.) amended the Antiquities Act, set a broad policy stating that archaeological resources are important to the nation and should be protected, and required special permits before the excavation or removal of archaeological resources from public or Indian lands.

### **Native American Graves Protection and Repatriation Act**

The Native American Graves Protection and Repatriation Act of 1990 (25 USC 3001 et seq.) was intended to ensure the protection and rightful disposition of Native American cultural items and burials located on federal or tribal trust lands, and in the possession or control of the federal government. The act requires that an inventory of Native American human remains, and funerary objects must be compiled by federal funded agencies and all museums and educational institutions receiving federal funds. Additionally, this act makes it illegal to traffic Native American remains and cultural items without the right of possession, whether or not they derive from federal or Native American lands.

Also, all Indian tribes and representatives identified by the Native American Heritage Commission (NAHC) must be consulted whenever archaeological investigations encounter, or are expected to encounter, Native American cultural items or when such items are unexpectedly discovered on federal or tribal lands. Excavation or removal of any such items also must be done under procedures required by the Archaeological Resources Protection Act.

### **The Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation**

These standards, effective as of 1983, provide technical advice for archaeological and historic preservation practices. Their purposes are (1) to organize the information gathered about preservation activities; (2) to describe results to be achieved by federal agencies, states, and others when planning for the identification, evaluation, registration, and treatment of historic properties; and (3) to integrate the diverse efforts of many entities performing historic preservation into a systemic effort to preserve the nation's culture heritage (48 Federal Register 44716).

### **The Secretary of the Interior's Standards for Rehabilitation**

These standards were established by the Secretary of the Interior in 1986 as a way to homogenize rehabilitation efforts of nationally significant historic properties and buildings. These standards pertain to actions involved in returning a property to a state of utility through repair or alteration. This allows for the preservation of historic and cultural values of the property, while giving it an efficient contemporary use (36 CFR 67).

### **The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings**

The Standards for the Treatment of Historic Properties are a compilation of 34 guidelines to promote the responsible preservation of U.S. historic cultural resources. The standards specifically address preservation, rehabilitation, restoration, and reconstruction of historic materials. The standards are not intended to be the sole basis for decision-making in regard to whether a historic property should be saved, but rather are intended to provide consistency in conservation and restoration practice (36 CFR 68).

## C.5.2 State

### CEQA Statute and Guidelines

CEQA and the CEQA Guidelines include procedures for identifying, analyzing, and disclosing potential adverse impacts to cultural resources. For archaeological sites, the CEQA Guidelines [Section 15064.5(c)(1)] require that the lead agency first determine whether the site is a “historical resource” as defined in Section 15064.5(a) (see below definition). If the site qualifies as a historical resource, potential adverse impacts must be considered in the same manner as a historical resource, as described below [CEQA Guidelines Section 15064.5(c)(2)]. If the archaeological site does not qualify as a historical resource but does qualify as a “unique archaeological resource,” then the archaeological site is treated in accordance with CEQA Public Resources Code Section 21083.2, which places certain limits on permissible mitigation measures [CEQA Guidelines Section 15064.5(c)(3)]. In practice, most archaeological sites that meet the definition of a unique archaeological resource will also meet the definition of a historical resource.

The CEQA Guidelines [Section 15064.5(a)] define a “historical resource” as including the following:

- A resource listed in, or eligible for listing in, the CRHR;
- A resource listed in a local register of historical resources (as defined at PRC Section 5020.1(k));
- A resource identified as significant in a historical resources survey meeting the requirements of PRC Section 5024.1(g); or
- Any object, building, structure, site, area, place, record, or manuscript that a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California (Generally, a resource is considered by the lead agency to be “historically significant” if the resource meets the criteria for listing in the CRHR).

A project that causes a “substantial adverse change” in the significance of a historical resource may have a significant effect on the environment [CEQA Guidelines Section 15064.5(b)]. The CEQA Guidelines [Section 15064.5(b)(1)] define “substantial adverse change” as “physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of a historical resource would be materially impaired.” Generally, the significance of a historical resource is “materially impaired” when a project demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its inclusion in or eligibility for the CRHR, or its inclusion in a local register of historical resources [CEQA Guidelines Section 15064.5(b)(2)].

Mitigation measures are discussed in CEQA Guidelines Section 15126.4. Generally, by following the Secretary of the Interior’s Standards for the Treatment of Historic Properties or the Secretary of the Interior’s Standards for Rehabilitation, impacts can be considered as mitigated to a less-than-significant level [CEQA Guidelines Section 15064.5(b)]. For archaeological resources, the CEQA Guidelines [Section 15126.4(b)(3)] provide that a public agency should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The CEQA

Guidelines also require consideration of preservation in place as the preferred manner of mitigation. Mitigation by data recovery is recommended only if preservation is not feasible.

### **California Register of Historical Resources: Public Resources Code Section 5024.1**

The CRHR includes resources that are listed in or formally determined eligible for listing in the NRHP, as well as some designated California State Landmarks and Points of Historical Interest. Properties of local significance that have been designated under a local preservation ordinance (local landmarks or landmark districts) or that have been identified in a local historical resources inventory may be eligible for listing in the CRHR.

### **California Native American Heritage Commission: Public Resources Code Sections 5097.91 through 5097.98**

The California NAHC identifies and catalogs places of special religious or social significance to Native Americans and known graves and cemeteries of Native Americans on private lands. Section 5097 was amended in 1987 (5097.9) to require consultation with the California NAHC whenever Native American graves are found. When the NAHC is notified of human remains, it shall immediately notify those persons it believes to be the most likely descendants. Section 5097.98 1(b) states:

*Upon the discovery of the Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in this section, with the most likely descendants regarding their recommendations, if applicable, taking into account the possibility of multiple human remains. The landowner shall discuss and confer with the descendants all reasonable options regarding the descendants' preferences for treatment.*

It also states possible preferences the most likely descendants may have for said treatment, including preservation in place, nondestructive removal and analysis, relinquishment to the most likely descendants, or other appropriate treatment. Conferral or discussion between the most likely descendant and landowner is described in Section 5097.98 2(c) as “meaningful and timely discussion and careful consideration of the views of each party, in a manner that is cognizant of all parties’ cultural values, and where feasible, seeking agreement.”

### **Unique Archeological Resources**

The Public Resources Code Section 21083.2[a] also requires the Lead Agency to determine whether or not a project would have a significant effect on unique archaeological resources.

The Public Resources Code defines a unique archaeological resource as follows.

- An archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:
  - Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information;

- Has a special and particular quality such as being the oldest of its type or the best available example of its type; or
- Is directly associated with a scientifically recognized important prehistoric or historic event or person (PRC § 21083.2).

In most situations, resources that meet the definition of a unique archaeological resource also meet the definition of a historical resource. As a result, it is current professional practice to evaluate cultural resources for significance based on their eligibility for listing in the CRHR.

### **Health and Safety Code Section 7050.5: Removal of Human Remains**

Regarding the discovery of human remains on non-federal lands, Section 7050.5 of the California Health and Safety Code (CHSC) states the following:

- a) Every person who knowingly mutilates or disinters, wantonly disturbs, or willfully removes any human remains in or from any location other than a dedicated cemetery without authority of law is guilty of a misdemeanor, except as provided in Section 5097.99 of the [PRC]. The provisions of this subdivision shall not apply to any person carrying out an agreement developed pursuant to subdivision (l) of Section 5097.94 of the [PRC] or to any person authorized to implement Section 5097.98 of the [PRC].
- b) In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined, in accordance with Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the California Government Code [CGC], that the remains are not subject to the provisions of Section 27491 of the CGC or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the PRC. The coroner shall make his or her determination within 2 working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains.
- c) If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission (NAHC) (CHSC Section 7050.5).

Of particular note to cultural resources is subsection c). After notification, NAHC would follow the procedures outlined in PRC § 5097.98, which include notification of most likely descendants, if possible, and recommendations for treatment of the remains. The most likely descendants would have 24 hours after notification by the NAHC to make their recommendation (PRC § 5097.98). In addition, knowing or willful possession of Native American human remains or artifacts taken from a grave or cairn is a felony under State law (PRC § 5097.99).

## California Graves Protection and Repatriation Act

Section 8010 and 8011 of the Health and Safety Code also address the protection of Native American human remains and cultural items and state:

- Section 8010. This chapter shall be known and may be cited as the California Native American Graves Protection and Repatriation Act of 2001.
- Section 8011. It is the intent of the Legislature to do all of the following:
  - (a) Provide a seamless and consistent state policy to ensure that all California Indian human remains and cultural items be treated with dignity and respect.
  - (b) Apply the state's repatriation policy consistently with the provisions of the Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.), which was enacted in 1990.
  - (c) Facilitate the implementation of the provisions of Native American Graves Protection and Repatriation Act with respect to publicly funded agencies and museums in California.
  - (d) Encourage voluntary disclosure and return of remains and cultural items by an agency or museum.
  - (e) the Provide a mechanism whereby lineal descendants and culturally affiliated California Indian tribes that file repatriation claims for human remains and cultural items under the Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.) or under this chapter with California state agencies and museums may request assistance from the commission in ensuring that state agencies and museums are responding to those claims in a timely manner and in facilitating the resolution of disputes regarding those claims.
  - (f) Provide a mechanism whereby California tribes that are not federally recognized may file claims with agencies and museums for repatriation of human remains and cultural items.

### C.5.3 Regional and Local

#### Town of Paradise 1994 General Plan

Section 3.15 (Scenic and Cultural Resources) of the *Town of Paradise 1994 General Plan* details the Town's procedures for complying with the state and federal policies outlined above. The General Plan includes the following goals, policies, and implementation measures related to cultural resources:

- **Goal OCEG-9:** Identify, record, preserve, and protect historical and archeological resources.
- **Policy OCEP-36:** The *Land Use Constraints Diagram* identifies areas of potential archaeological sensitivity. Proposed development or public works projects within this area shall be required to undertake an archaeological survey prior to project approval. Proposed projects outside this area, in locations that have not been significantly disturbed, shall be referred to the California Archaeological Inventory, Northeast Information Center, California

State University, Chico to undertake an archaeological survey prior to project approval upon recommendation by the Center.

- **Implementation Measure OCEI-18:** Require compliance of all development projects with Appendix K (archeological impacts) of the *Guidelines for Implementation of the California Environmental Quality Act*.
- **Implementation Measure OCEI-19:** When an archaeological survey is required by the Town or recommended by the California Archaeological Inventory, Northeast Information Center, the survey shall be undertaken by a qualified professional archaeologist who is certified by the Society of Professional Archaeologists or has equivalent qualifications.
- **Implementation Measure OCEI-20:** Should any historic or pre-historic artifacts be discovered during construction, all work shall cease until a qualified professional archaeologist views the site, provides recommendations and gives clearance to continue.

### Chico 2030 General Plan

The Chapter 11 (Cultural Resources and Historic Preservation) element of the *Chico 2030 General Plan* identifies important local cultural, archaeological, and historic resources and establishes goals, policies, and actions for the protection and preservation of those resources. Importantly, the element supports a Memorandum of Understanding adopted in June 2008 between the City of Chico and the Mechoopda Indian Tribe of the Chico Rancheria. The element also establishes the policy guidance for the City of Chico's comprehensive Historic Preservation Program. To this end, the City of Chico adopted three goals specific to cultural resources in the General Plan:

- **Goal CRHP-1:** Protect and preserve archaeological, historical, and other cultural resources to serve as significant reminders of the City's heritage and values.
- **Goal CRHP-2:** Reinvest in the archaeological, historical, and other cultural resources that frame Chico's character and identity.
- **Goal CRHP-3:** Engage in and facilitate preservation efforts with local preservation and cultural entities.

The General Plan includes the following policies related to cultural resources:

- **Policy CRHP-1.1, Historic Preservation Program:** Maintain a comprehensive Historic Preservation Program that includes policies and regulations which protect and preserve the archeological, historical, and cultural resources of Chico.
- **Policy CRHP-2.1, Infill and Historic Preservation:** Integrate the values of historic preservation with infill development and adaptive reuse.
- **Policy CRHP-2.2, Adaptive Reuse:** Encourage the adaptive reuse of historic buildings when the original use of the structure is no longer feasible.
- **Policy CRHP-2.3, Demolition as Last Resort:** Limit the demolition of historic resources to an act of last resort, to be permitted only if: 1) rehabilitation of the resource is not feasible; 2)

demolition is necessary to protect the health, safety, and welfare of its residents; or 3) the public benefits outweigh the loss of the historic resource.

- **Policy CRHP-2.4, Public Awareness of Heritage Resources:** Encourage public awareness of the heritage resources that helped shape the history of Chico.
- **Policy CRHP-2.5, Purchase of Historically Significant Buildings:** Explore grant funding, partnerships, and other opportunities to purchase historically significant buildings or sites that are eligible for State or National Registers as they become available.
- **Policy CRHP-3.1, Partnerships to Preserve Heritage Resources:** Foster partnerships with interested parties to preserve heritage resources.

These policies detail the City of Chico's protocols to, among others, identify, avoid, and mitigate impacts to archaeological, tribal, and built environment resources; integrate historic preservation into infill development; encourage public awareness of heritage resources; and establish partnerships with interested parties.

### **City of Chico Historic Preservation Ordinance**

The historic preservation ordinance of the City of Chico's Municipal Code (Chapter 19.37) specifically affords protection for properties listed on the City of Chico's Historic Resources Inventory and provides a mechanism to add historic properties to the Inventory through Landmark Overlay zoning districts. The ordinance also provides development incentives to owners of designated historic property and establishes a number of exempt activities such as ordinary maintenance and repair. Proposals to significantly alter or demolish structures listed on the City of Chico's Historic Resources Inventory are reviewed by the City of Chico's five-member Architectural Review and Historic Preservation Board. The Board also reviews nominations to the City of Chico's Inventory and forwards recommendations to the City Council for a final determination of listing.

### **Butte County General Plan 2030**

Chapter 9 of the *Butte County General Plan 2030* details Butte County's protocols aligning Butte County's efforts to identify, protect, and preserve important prehistoric and historic resources with state and federal regulations and specifies the mandated steps to identify, avoid, and mitigate (if necessary) cultural resources. To this end, the Butte County adopted three goals specific to cultural resources in the General Plan:

- **Goal COS-14:** Preserve important cultural resources
- **Goal COS-15:** Ensure that new development does not adversely impact cultural resources.
- **Goal COS-16:** Respect Native American culture and planning concerns

In support of these policies, the General Plan includes the following policies:

- **Policy COS-P14.1:** Historic and cultural resources management shall be coordinated with nearby jurisdictions, including the five incorporated municipalities, the Lassen and Plumas National Forests, other planning and regulatory agencies, and local tribes.

- **Policy COS-P14.2:** As part of CEQA and NEPA projects, evaluations of surface and subsurface cultural resources in the county shall be conducted. Such evaluations should involve consultation with the Northeast Information Center.
- **Policy COS-P14.3:** The Northeast Information Center and appropriate historic and preservation professionals shall be consulted when considering reuse of historic sites.
- **Policy COS-P15.1:** Areas found during construction to contain significant historic or prehistoric archaeological artifacts shall be examined by a qualified consulting archaeologist or historian for appropriate protection and preservation. Historic or prehistoric artifacts found during construction shall be examined by a qualified consulting archaeologist or historian to determine their significance and develop appropriate protection and preservation measures.
- **Policy COS-P15.2:** Any archaeological or paleontological resources on a development project site shall be either preserved in their sites or adequately documented as a condition of removal. When a development project has sufficient flexibility, avoidance and preservation of the resource shall be the primary mitigation measure.
- **Policy COS-P15.3:** Demolition permit application on potentially important historic sites shall be subject to discretionary review.
- **Policy COS-P16.2:** Impacts to the traditional Native American landscape shall be considered during California Environmental Quality Act or National Environmental Protection Act review of development proposals.
- **Policy COS-P16.3:** Human remains discovered during implementation of public and private development projects shall be treated with dignity and respect. Such treatment shall fully comply with the federal Native American Graves Protection and Repatriation Act and other appropriate laws.
- **Policy COS-P16.4:** If human remains are located during any ground disturbing activity, work shall stop until the County Coroner has been contacted, and, if the human remains are determined to be of Native American origin, the NAHC and most likely descendant have been consulted.
- **Policy COS-P16.5:** Consistent with State local and tribal intergovernmental consultation requirements such as SB 18, the County shall consult with Native American tribes that may be interested in proposed new development projects and land use policy changes.

## C.6 Energy

This section summarizes the applicable federal, state, and local laws, regulations, orders, policies, and plans that are relevant to the analysis of energy in the EIR, Section 3.6.

### C.6.1 Federal

#### Corporate Average Fuel Economy

The Corporate Average Fuel Economy (CAFE) standards were first introduced by Congress in 1975 to help reduce the country's dependence on foreign oil. CAFE standards are regulated by Department of Transportation's National Highway Traffic and Safety Administration (NHTSA). NHTSA sets and enforces the CAFE standards, while the United States Environmental Protection Agency (USEPA) calculates average fuel economy levels for manufacturers, and also sets related GHG standards. The regulations have become more stringent over time. The regulations at first applied only to passenger cars in 1978, then included light duty trucks up to 6,000 pounds in 1980, and finally increased to all vehicles up to 8,500 pounds the next year. Regulations varied during the 1980s for both cars and trucks before reaching a steady target for cars in 1990 through 2010, with trucks moderately increasing during the period from 20 to 21 miles per gallon (mpg) through 2005, then reaching 23.5 mpg by 2010.

On April 1, 2010, under the Obama Administration, the USEPA and the NHTSA announced a joint final rule establishing a national program that would reduce GHG emissions and improve fuel economy for new cars and trucks sold in the United States. The first phase of the national program applied to passenger cars, light-duty trucks, and medium-duty passenger vehicles for model years 2012 through 2016. This phase required these vehicles to meet a fuel economy standard of 35.5 mpg. The second phase applied to passenger cars, light-duty trucks, and medium-duty passenger vehicles for model years 2017 through 2025. This phase required these vehicles to meet an estimated fuel economy standard of 54.5 mpg.

On September 15, 2011, the USEPA and NHTSA issued a final rule for the first national standards to improve fuel efficiency of medium- and heavy-duty trucks and buses, model years 2014 through 2018 by up to 20 percent.

On October 25, 2016, the USEPA and NHTSA issued Phase 2 of the national standards to improve fuel efficiency standards for medium- and heavy-duty trucks and buses for model years 2021 through 2027 to achieve vehicle fuel savings as high as 25 percent, depending on the vehicle category.

On March 31, 2020, under the Trump administration, the USEPA and NHTSA, issued the Safer Affordable Fuel Efficient (SAFE) Vehicles Rule. The SAFE Vehicles Rule set new CAFE targets and tailpipe carbon dioxide emissions standards for passenger cars and light trucks that increase 1.5 percent in stringency each year from model years 2021 through 2026.

The current Biden administration intends to set new fuel efficiency standards. In August 2021, NHTSA released its Notice of Proposed Rulemaking offering new standards for the 2024–2026 model years. The new standards would increase fuel efficiency 8 percent annually for model years 2024-2026 and increase the estimated fleetwide average by 12 mpg for model year 2026, relative to model year 2021. President Biden issued Executive Order (EO) 14037 on August 5, 2021, which requires NHTSA to develop fuel economy standards for passenger cars and light duty trucks for model years 2027-2030. In addition, NHTSA will develop medium and heavy-duty fuel efficiency standards beginning as early as model year 2027. At the time of EIR preparation, new CAFE standards have not been adopted.

### **National Energy Policy Act of 2005**

The National Energy Policy Act of 2005 set equipment energy efficiency standards. The law seeks to reduce reliance on non-renewable energy resources and provide incentives to reduce current demand on these resources. For example, under the National Energy Policy Act, consumers and businesses can obtain federal tax credits for purchasing fuel-efficient appliances and products, including hybrid vehicles; constructing energy-efficient buildings; and improving the energy efficiency of commercial buildings. Tax credits are also available for installing qualified fuel cells, stationary microturbine power plants, and solar power equipment.

Executive Order 13423 (Strengthening Federal Environmental, Energy, and Transportation Management), signed by President George W. Bush in 2007, strengthened the federal government's key energy management goals and set more challenging goals than the National Energy Policy Act of 2005. The energy reduction and environmental performance requirements of Executive Order 13423 were expanded upon in Executive Order 13514 (Federal Leadership in Environmental, Energy, and Economic Performance), signed by President Barack Obama in 2009.

The Renewable Fuel Standard (RFS) program was created under the National Energy Policy Act of 2005 and established the first renewable fuel volume mandate in the United States. The program regulations were developed in collaboration with refiners, renewable fuel producers, and many other stakeholders. This RFS program under this act, commonly referred to as "RFS1", required 4.0 billion gallons of renewable fuel to be blended into gasoline by 2006, ascending to 7.5 billion gallons by 2012.

### **Energy Independence and Security Act of 2007**

The Energy Independence and Security Act of 2007 is designed to achieve energy security in the United States by increasing renewable fuel production, improving energy efficiency and performance, protecting consumers, improving vehicle fuel economy, and promoting research on GHG capture and storage. Under this act, RFS program was expanded in several ways that lay the foundation for achieving significant reductions in GHG emissions from the use of renewable fuels, reducing imported petroleum, and encouraging the development and expansion of the renewable fuels sector in the United States. The updated program is referred to as "RFS2" and includes the following:

- Expanded the RFS program to include diesel, in addition to gasoline
- Increased the volume of renewable fuel required to be blended into transportation fuel from 9 billion gallons in 2008 to 36 billion gallons by 2022
- Established new categories of renewable fuel and set separate volume requirements for each
- Required the USEPA to apply lifecycle GHG performance threshold standards to ensure that each category of renewable fuel emits fewer GHGs than the petroleum fuel it replaces

## **C.6.2 State**

### **California Energy Commission**

The Warren-Alquist Act of 1974 established the California Energy Commission (CEC), which is California's primary energy policy and energy planning agency. CEC's core responsibilities include advancing the state's energy policy, achieving energy efficiency, investing in energy innovation, developing renewable energy, transforming transportation, overseeing energy infrastructure, and preparing for energy emergencies.

### **Energy Action Plan**

The California Public Utilities Commission approved the State's first Energy Action Plan in 2003 followed by the Energy Action Plan II in 2005. The current plan, Energy Action Plan II, is California's principal energy planning and policy document. The plan examines the state's ongoing actions in the context of global climate change, describes a coordinated implementation plan for state energy policies, and identifies specific actions to ensure that California's energy resources are adequate, reliable, and reasonably-priced. The plan identifies policies, strategies, and actions that are cost-effective and environmentally-sound for California's consumers and taxpayers.

### **Greenhouse Gas Regulations**

In 2006, the Legislature enacted AB 32, the California Global Warming Solutions Act of 2006, which required California to reduce its GHG emissions to 1990 levels by 2020. In 2016, the Legislature enacted SB 32, which extended the horizon year of the state's codified GHG reduction planning targets from 2020 to 2030, requiring California to reduce its GHG emissions to 40% below 1990 levels by 2030. In accordance with AB 32 and SB 32, ARB prepares scoping plans to guide the development of statewide policies and regulations for the reduction of GHG emissions. Many of the policy and regulatory concepts identified in the scoping plans focused on increasing energy efficiencies and the use of renewable resources and reducing the consumption of petroleum-based fuels (such as gasoline and diesel). As such, the state's GHG emissions reduction planning framework creates co-benefits for energy-related resources. Additional information on Climate Change Scoping Plans is provided in Section C.8.2.

### **Renewable Energy Regulations**

SB 1078 (2002) established the California Renewable Portfolio Standard (RPS) Program and required that a retail seller of electricity purchase a specified minimum percentage of electricity generated by eligible renewable energy resources as defined in any given year, culminating in a 20 percent standard by December 31, 2017. These retail sellers include electrical corporations, community choice aggregators, and electric service providers.

SB 107 (2006) accelerated the RPS established by SB 1078 by requiring that 20 percent of electricity retail sales be served by renewable energy resources by 2010 (not 2017).

SB X1-2 (2011) required all California utilities to generate 33 percent of their electricity from eligible renewable energy resources by 2020. Specifically, SB X1-2 set a three-stage compliance period: 20 percent electricity from renewables by December 31, 2013; 25 percent from renewables by December 31, 2016; and 33 percent from renewables by December 31, 2020.

SB 350 (2015) accelerated the RPS by requiring retail seller and publicly owned utilities to procure 50 percent of their electricity from eligible renewable energy resources by 2030, with interim goals of 40 percent by 2024 and 45 percent by 2027.

SB 100 (2018) accelerated and expanded the standards set forth in SB 350 by establishing that 44 percent of the total electricity sold to retail customers in California per year by December 31, 2024, 52 percent by December 31, 2027, and 60 percent by December 31, 2030, be secured from qualifying renewable energy sources. SB 100 also states that it is the policy of the state that eligible renewable energy resources and zero-carbon resources supply 100 percent of the retail sales of electricity to California. This bill requires that the achievement of 100 percent zero-carbon electricity resources does not increase the carbon emissions elsewhere in the western grid and that the achievement not be achieved through resource shuffling.

EO B-55-18 (2018) established a new statewide goal to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter. The EO requires the ARB to work with relevant State agencies to develop a framework for implementation and accounting that tracks the progress toward this goal. ARB will also be required to work with relevant State agencies to ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal.

### **Assembly Bill 1007**

AB 1007 (2005) required CEC to prepare a statewide plan to increase the use of alternative fuels in California. CEC prepared the State Alternative Fuels Plan in partnership with ARB and in consultation with other State, federal, and local agencies. The plan presents strategies and actions California must take to increase the use of nonpetroleum fuels in a manner that minimizes the costs to California and maximizes the economic benefits of in-state production. The plan assessed various alternative fuels and developed fuel portfolios to meet California's goals to reduce petroleum consumption, increase alternative fuel use, reduce GHG emissions, and increase in-state production of biofuels without causing a significant degradation to public health and environmental quality.

### **Assembly Bill 1493**

AB 1493 (2002) required ARB to set GHG emission standards for passenger vehicles, light-duty trucks, and other vehicles whose primary use is non-commercial personal transportation in the state. AB 1493 required that ARB set GHG emission standards for motor vehicles manufactured in 2009 and all subsequent model years.

### **Advanced Clean Cars**

In 2012, ARB approved a new emissions-control program for model years 2017 through 2025. The program combines the control of smog, soot, and global warming gases and requirements for greater numbers of zero-emission vehicles into a single package of standards called Advanced Clean Cars.

### **In-Use Off-Road Diesel-Fueled Fleets Regulation**

All self-propelled off-road diesel vehicles 25 horsepower or greater used in California (such as bulldozers, loaders, backhoes, forklifts, etc.) and most two-engine vehicles (except on-road two-engine sweepers) are subject to the Regulation for In-Use Off-Road Diesel-Fueled Fleets (Off-Road Diesel Regulation). Adopted by the ARB on July 26, 2007, this regulation aims to reduce NOX and particulate matter from off-road diesel vehicles operating within California by retiring, replacing, or

repowering older engines, or installing diesel exhaust retrofits. The compliance schedule requires full implementation by 2023 in all vehicles for large and medium fleets and by 2028 for small fleets.

Vehicles or engines subject to this regulation must limit their idling to five minutes. The idling limit does not apply to vehicles that need to idle to accomplish the work it was designed for (such as operating a crane), vehicles that need to idle for safe operation, vehicles being serviced or tested, or vehicles in a queue waiting for work. While the goal of this regulation is primarily to reduce emissions from diesel vehicles, compliance with the regulation also results in energy savings in the form of reduced fuel consumption from unnecessary idling.

### **Sustainable Communities Strategy**

The Sustainable Communities and Climate Protection Act of 2008, or SB 375, coordinates land use planning, regional transportation plans, and funding priorities to help California meet its GHG emissions reduction mandates. As codified in California Government Code, Section 65080, SB 375 requires metropolitan planning organizations (such as the Butte County Association of Governments) to include a Sustainable Communities Strategy in its regional transportation plan. The main focus of the Sustainable Communities Strategy is to plan for growth in a fashion that will ultimately reduce GHG emissions, but the strategy is also a part of a bigger effort to address other development issues within the general vicinity, including transit and VMT, which influence the consumption of petroleum-based fuels.

### **C.6.3 Regional and Local**

#### **Town of Paradise 1994 General Plan**

The Open Space/Conservation/Energy Element of the *Town of Paradise 1994 General Plan* includes the following goals related to energy:

- **Goal OCEG-10:** Maximize Paradise's energy efficiency.
- **Goal OCEG-11:** Become a regional leader in the approach to energy conservation.

The general plan contains the following objective related to energy – OCEO-14: Significantly reduce town-wide energy consumption.

#### **Butte County General Plan 2030**

The *Butte County General Plan 2030* includes the following policies related to energy:

- **Policy H-P6.1:** Continue to implement state energy efficiency standards.
- **Policy COS-P3.4:** Solar-oriented and renewable design and grid-neutral development shall be encouraged.

#### **Chico 2030 General Plan**

The *Chico 2030 General Plan* includes the following policies related to energy:

- **Policy SUS-3.2, Municipal Energy Use:** Reduce energy and water use in municipal operations.
- **Policy SUS-3.4, Sustainable Fleet:** Support sustainable City vehicles and equipment.
- **Policy SUS-4.1, Green Public Facilities:** Incorporate green building techniques in the site design, construction, and renovation of public projects.
- **Policy SUS-5.2, Energy Efficient Design:** Support the inclusion of energy efficient design and renewable energy technologies in public and private projects.

### **Butte County 2021 Climate Action Plan**

The *Butte County 2021 Climate Action Plan* was adopted on December 14, 2021. Strategies in the climate action plan not only result in a reduction of GHG emissions countywide, but they increase overall sustainability and quality of life in the county by facilitating increased access to transportation and services, upgrades to infrastructure that build resiliency for the entire community, energy independence and affordability, and supporting broader economic development initiatives. Additional information on the climate action plan is provided in Section C.8.3.

### **City of Chico Climate Action Plan Update**

The *City of Chico Climate Action Plan Update* (Rincon Consultants 2021) was adopted on October 19, 2021. Measures in the climate action plan that would result in a reduction of GHG emissions are related to energy efficiency, renewable energy, sustainable transportation, development patterns, solid waste, water, urban trees and greenspace, and community engagement. Additional information on the climate action plan is provided in Section C.8.3.

## **C.7 Geology, Soils, and Paleontological Resources**

This section summarizes the federal, state, and local laws, regulations, orders, policies, and plans that are relevant to the analysis of geology, soils, and paleontological resources in the EIR, Section 3.7.

### **C.7.1 Federal**

#### **Earthquake Hazards Reduction Act**

In October 1977, the United States Congress passed the Earthquake Hazards Reduction Act to reduce the risks to life and property from future earthquakes in the United States. The Earthquake Hazards Reduction Act established the National Earthquake Hazard Reduction Program. The purpose of this program is to reduce the risks to life and property in the United States from earthquakes through the establishment and maintenance of an effective national earthquake risk reduction program. Member agencies in the National Earthquake Hazard Reduction Program are the US Geological Survey, the National Science Foundation, the Federal Emergency Management Agency, and the National Institute of Standards and Technology.

In November 1990, the National Earthquake Hazards Reduction Reauthorization Program Act amended the Earthquake Hazards Reduction Act of 1977 significantly by refining the description of agency responsibilities, program goals, and objectives.

The Earthquake Hazards Reduction Act's aims include improved understanding, characterization, and prediction of hazards and vulnerabilities; improved building codes and land use practices; reduced earthquake risks through post-earthquake investigations and education; development and improvement of design and construction techniques; improved mitigation capacity; and accelerated application of research results (US Geological Survey 2015).

### **Paleontological Resources Preservation Act**

The Paleontological Resources Preservation Act was passed on March 30, 2009. The Paleontological Resources Preservation Act is intended to preserve, manage, and protect paleontological resources on lands administered by the Bureau of Land Management, the Bureau of Reclamation, the National Parks Service, and the US Fish and Wildlife Service. The Paleontological Resources Preservation Act addresses the management, collection, and curation of paleontological resources from federal lands and authorizes civil and criminal penalties for illegally collecting, damaging, defacing, or selling paleontological resources.

## **C.7.2 State**

### **Alquist-Priolo Earthquake Fault Zoning Act**

The Alquist-Priolo Earthquake Fault Zoning Act (Alquist-Priolo Act) (California Public Resources Code [PRC] §§ 2621–2630) was enacted in 1972 to reduce the hazard of surface faulting to structures designed for human occupancy. The main purpose of the law is to prevent the construction of buildings used for human occupancy on the surface trace of active faults. The law addresses only the hazard of surface fault rupture and is not directed toward other earthquake hazards. The Alquist-Priolo Act requires the State Geologist to establish regulatory zones known as Earthquake Fault Zones around the surface traces of active faults and issue appropriate maps, which are distributed to all affected cities, counties, and state agencies for their use in planning efforts. Before a project can be permitted in a designated Alquist-Priolo Earthquake Fault Zone, the permitting agency must require a geologic investigation to demonstrate that buildings intended for human habitation would not be constructed on active faults.

### **Seismic Hazards Mapping Act**

The Seismic Hazards Mapping Act of 1990 (PRC, Chapter 7.8, Sections 2690 to 2699.6) directs the DOC, CGS to identify and map areas prone to earthquake liquefaction hazards, earthquake-induced landslides, and amplified ground shaking. The Seismic Hazards Mapping Act is intended to reduce the threat to public safety and to minimize the loss of life and property by identifying and mitigating these seismic hazards. The Seismic Hazards Mapping Act requires the State Geologist to establish regulatory zones (Zones of Required Investigation) and to issue appropriate maps (Seismic Hazard Zone maps). These maps are distributed to all affected cities, counties, and state agencies for their use in planning and controlling construction and development.

## **General Permit for Construction Activities**

The State of California adopted the Construction General Permit, Order No. 2012 0006 DWQ, amending Order No. 2009 0009 DWQ, effective July 17, 2012. The State Water Resources Control Board (SWRCB) Water Quality Order 2012 0006 DWQ (Construction General Permit) regulates construction site stormwater management. Dischargers whose projects disturb 1 or more acres of soil, or whose projects disturb less than 1 acre but are part of a larger common plan of development that in total disturbs 1 or more acres, are required to obtain coverage under the general permit for discharges of stormwater associated with construction activity. This requirement includes linear projects that disturb 1 or more acres. Construction activity subject to this permit includes clearing, grading, and disturbances to the ground, such as stockpiling or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility.

Permit applicants are required to submit a Notice of Intent to SWRCB and to prepare a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP identifies best management practices (BMPs) that must be implemented to reduce construction effects on receiving water quality based on pollutants. The BMPs identified are directed at implementing both sediment and erosion control measures and other measures to control chemical contaminants. The SWPPP must also include descriptions of the BMPs to reduce pollutants in stormwater discharges after all construction phases have been completed at the site (post construction BMPs). The SWPPP must contain a visual monitoring program, a chemical monitoring program for “nonvisible” pollutants to be implemented if there is a failure of BMPs, and a sediment monitoring plan if the site discharges directly to a waterbody listed on the CWA 303(d) list for sediment.

## **Paleontological Resources**

CEQA includes in its definition of historical resources “...any object [or] site ...that has yielded or may be likely to yield information important in prehistory...” (14 CCR § 15064.5[a][3]), which is typically interpreted as including fossils and other paleontological resources. More specifically, destruction of a “...unique paleontological resource or site or unique geologic feature...” constitutes a significant impact under CEQA pursuant to CEQA Guidelines in Appendix G. Treatment of paleontological resources under CEQA is generally similar to treatment of cultural resources, requiring evaluation of resources in the project; assessment of potential impacts on significant or unique resources; and development of mitigation measures for potentially significant impacts, which may include monitoring, data recovery excavation, and/or avoidance.

## **Public Resources Code Section 5097.5**

PRC § 5097.5 states that no person shall knowingly and willfully excavate upon, or remove, destroy, injure, or deface any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological, or historical feature, situated on public lands, except with the express permission of the public agency having jurisdiction over such lands. Violation of this section is a misdemeanor. As used in this section, “public lands” means lands owned by, or under the jurisdiction of, the state, or any city, county, district, authority, or public corporation, or any agency thereof.

## Society of Vertebrate Paleontology

The Society of Vertebrate Paleontology has guidance for assessing and mitigating paleontological resources that could potentially be impacted from land development. This guidance is included in the *Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources* (Society of Vertebrate Paleontology 2010). As part of the assessment process for paleontological resources, the Society of Vertebrate Paleontology's guidance groups rock units into a high, undetermined, low, or no potential category for containing significant paleontological resources. These categories then determine the level of mitigation required, or further assessment prior to construction, for adequate protection or salvage of paleontological resources within a project area.

### C.7.3 Regional and Local

#### Town of Paradise 1994 General Plan

The *Town of Paradise 1994 General Plan* includes the following policies related to geology and soils:

- **Policy SP-15:** Development projects should be designed to minimize soil erosion and shall be required to comply with all Town of Paradise-adopted soil erosion standards maintained by the Paradise Community Development Department.
- **Policy SP-16:** The town should require all development proposals on sites that contain slopes exceeding 20 percent, and/or which border or include significant and sensitive stream courses or natural drainageways, to include programs for replanting and slope stabilization, erosion control plans, and to incorporate designs which minimize grading and cut-and-fill.
- **Policy SP-17:** Building on slopes in excess of 30 percent should not be permitted.

#### Butte County General Plan 2030

The *Butte County General Plan 2030* includes the following policies related to geology, soils, and paleontological resources:

- **Policy HS-P6.1:** Appropriate detailed seismic investigations shall be completed for all public and private development projects in accordance with the Alquist-Priolo Earthquake Fault Zoning Act.
- **Policy HS-P7.1:** Site-specific geotechnical investigations shall be required to assess landslide potential for private development and public facilities projects in areas rated "Moderate to High" and "High" in Figure HS-4 or the most current available mapping
- **Policy HS-P8.1:** Site-specific geotechnical investigations shall be required to assess erosion potential for private development projects and public facilities in areas rated "Very High" in Figure HS-7 or the most current available mapping.
- **Policy HS-P9.1:** Site-specific geotechnical investigations shall be required to assess risks from expansive soils for private development projects and public facilities in areas rated "High" in Figure HS-8 or the most current available mapping.

- **Policy COS-P14.2:** As part of CEQA and NEPA projects, evaluations of surface and subsurface cultural resources in the county shall be conducted. Such evaluations should involve consultation with the Northeast Information Center.
- **Policy COS-P15.2:** Any archaeological or paleontological resources on a development project site shall be either preserved in their sites or adequately documented as a condition of removal. When a development project has sufficient flexibility, avoidance and preservation of the resource shall be the primary mitigation measure.

### Chico 2030 General Plan

The *Chico 2030 General Plan* includes the following policies and actions related to seismic and geologic hazards:

- **Policy S-3.1, Potential Structural Damage:** Prevent damage to new structures caused by seismic, geologic, or soil conditions.
  - **Action S-3.1.2, Potential Soil Hazards:** In areas with highly expansive soils, require appropriate studies and structural precautions through project review.

### Grading Ordinances

Chapter 15.02, 2019 California Building Standards Code, of the Town's municipal code requires that a grading permit be obtained from the Town Engineer before any grading, clearing, or grubbing activities. Application for a grading permit requires submittal of a grading plan. The grading plan, and accompanying site map, shall show the following: existing and proposed contours, proposed limits of cuts and fills and other earthwork, existing off-site structures and other off-site improvements, public and private easements of record, typical sections of areas to be graded, all proposed uses for the site, and any other special features.

Chapter 13, Grading and Mining, of the Butte County's municipal code states that the application for a grading permit shall include the following: location map, plot plan, description of the work to be done and materials to be used, location of all drainage to and from the site, location of culverts and natural watercourses, details of proposed drainage structures, description of the methods to be used for erosion and sediment control, and locations of anticipated stockpile areas.

Chapter 16.28, Grading Regulations – Permits, of the Chico Municipal Code states that application for a grading permit requires submittal of a grading plan. The grading plan shall include detailed plans, dimensions, and grading specifications. If required by the building official, a soils engineering report and/or engineering geology report must be prepared, and any recommendations included in these reports shall be a part of the grading plan submittal.

## C.8 Greenhouse Gas Emissions

This section summarizes the federal, state, and local laws, regulations, orders, policies, and plans that are relevant to the analysis of GHG emissions in the EIR, Section 3.8.

## C.8.1 Federal

### United States Environmental Protection Agency

On April 2, 2007, in *Massachusetts v. Environmental Protection Agency*, 549 U.S. 497, the U.S. Supreme Court found that GHGs are air pollutants covered by the Federal Clean Air Act. The court held that USEPA must determine whether GHG emissions from new motor vehicles cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare, or whether the science is too uncertain to make a reasoned decision. The Supreme Court's decision resulted from a petition for rulemaking under section 202(a) filed by more than a dozen environmental, renewable energy, and other organizations.

## C.8.2 State

### Executive Order S-3-05

In June 2005, Governor Schwarzenegger issued Executive Order (EO) S-3-05, which established the following GHG emissions reduction targets: 1) reduce GHG emissions to 2000 levels by 2010, 2) reduce GHG emissions to 1990 levels by 2020, and 3) reduce GHG emissions to 80 percent below 1990 levels by 2050.

### Assembly Bill 32 (Global Warming Solutions Act)

In September 2006, the California State Legislature enacted the California Global Warming Solutions Act of 2006, also known as AB 32. AB 32 required that statewide GHG emissions be reduced to 1990 levels by 2020. California met its 2020 reduction goal in 2018.

### Executive Order B-30-15

On April 20, 2015, Governor Brown signed EO B-30-15 to establish a California GHG reduction target of 40 percent below 1990 levels by 2030. California's emission reduction target of 40 percent below 1990 levels by 2030 will make it possible to reach the ultimate goal of reducing emissions 80 percent below 1990 levels by 2050. This is in line with the scientifically established levels needed in the United States to limit global warming below 2 degrees Celsius, the warming threshold at which there will likely be major climate disruptions such as super droughts and rising sea levels.

### Senate Bill 32

Senate Bill (SB) 32 was signed into law on September 8, 2016, and expands upon AB 32 to reduce GHG emissions. SB 32 sets into law the mandated GHG emissions target of 40 percent below 1990 levels by 2030 written into EO B-30-15.

### Climate Change Scoping Plan

In December 2008, the ARB adopted the *Climate Change Scoping Plan* (2008 Scoping Plan) to achieve the goals outlined in AB 32. The 2008 Scoping Plan, developed by ARB in coordination with the Climate Action Team, proposed a comprehensive set of actions designed to reduce overall GHG emissions in California, improve the environment, reduce dependence on oil, diversify the state's energy sources, save energy, create new jobs, and enhance public health. According to the 2008 Scoping Plan, California will implement strategies to achieve a reduction of approximately 118

million metric tons (MT) of CO<sub>2</sub>e, or approximately 22 percent from the State's projected 2020 emission level of 545 million MT of CO<sub>2</sub>e under a business-as-usual scenario. This is a reduction of 47 million MT CO<sub>2</sub>e, or almost 10 percent, from 2008 emissions (ARB 2008). The ARB's original 2020 projection was 596 million MT CO<sub>2</sub>e, but this revised 2020 projection considered the economic downturn that occurred in 2008.

The *First Update to the Climate Change Scoping Plan* (2014 Scoping Plan) was approved by the ARB in May 2014 and built upon the 2008 Scoping Plan with new strategies and recommendations. The 2014 Scoping Plan contained the main strategies California will implement to achieve a reduction of 80 million MT of CO<sub>2</sub>e emissions, or approximately 16 percent, from the state's projected 2020 emission level of 507 million MT of CO<sub>2</sub>e under the business-as-usual scenario defined in the 2014 Scoping Plan (ARB 2014). The 2014 Scoping Plan also included a breakdown of the amount of GHG reductions ARB recommended for each emissions sector of the state's GHG inventory. Several strategies to reduce GHG emissions were included: Low Carbon Fuel Standard, Pavley Rule, Advanced Clean Cars program, Renewable Portfolio Standard, and Sustainable Communities Strategy.

In 2016, the Legislature passed SB 32, which codified a 2030 GHG emissions reduction target of 40 percent below 1990 levels. With the passage of SB 32, the Legislature passed companion legislation AB 197, which provided additional direction for developing the Scoping Plan. The ARB adopted *California's 2017 Climate Change Scoping Plan* (2017 Scoping Plan) in November 2017. The 2017 Scoping Plan represents a second update to the scoping plan to reflect the 2030 target as codified by SB 32. According to the 2017 Scoping Plan, the 2030 target of 260 million MT of CO<sub>2</sub>e requires the reduction of 129 million MT of CO<sub>2</sub>e, or approximately 33.2 percent, from the state's projected 2030 business-as-usual scenario emissions level of 389 million MT of CO<sub>2</sub>e (ARB 2017).

### **Assembly Bill 1493 (Pavley Clean Car Standards)**

AB 1493 (Pavley Bill) (Chapter 200, Statutes of 2002) requires ARB to develop and adopt regulations that achieve "the maximum feasible reduction of GHGs emitted by passenger vehicles and light duty truck and other vehicles determined by ARB to be vehicles whose primary use is non-commercial personal transportation in the state." In September 2004, pursuant to this directive, the ARB approved regulations to reduce GHG emissions from new motor vehicles beginning with the 2009 model year. These regulations created the Pavley standards. In September 2009, the ARB adopted amendments to the Pavley standards to reduce GHG emissions from new motor vehicles through the 2016 model year. These regulations created the Pavley II standards.

### **Advanced Clean Cars Program**

In January 2012, the ARB approved a new emissions control program for model years 2017 through 2025. The program combines the control of smog, soot, and global warming gases and requirements for greater numbers of zero emission vehicles into a single packet of standards called Advanced Clean Cars. The Advanced Clean Cars Program includes the Zero Emission Vehicle Program, which is designed to achieve California's long-term emission reduction goals by requiring manufacturers to offer for sale specific numbers of zero-emission vehicles, which include battery electric, fuel cell, and plug-in hybrid electric vehicles.

### C.8.3 Regional and Local

#### Butte County Air Quality Management District

BCAQMD is the air quality regulating authority in Butte County. The *CEQA Air Quality Handbook* (BCAQMD 2014) includes analysis requirements for construction and operational emissions. BCAQMD has not adopted thresholds of significance for GHG emissions. For construction and operational GHG emissions, BCAQMD's recommended threshold includes compliance with a qualified GHG reduction strategy, compliance with the Lead Agency's threshold, or consistency with the goals of AB 32.

#### Town of Paradise 1994 General Plan

The *Town of Paradise 1994 General Plan* does not contain any objectives or policies that specifically address GHG emissions. The Town has not adopted a climate action plan or any other plan to quantify existing GHG inventories or provide goals and measures to reduce GHG emissions in the town.

#### Butte County General Plan 2030

The *Butte County General Plan 2030* includes the following policies related to GHG emissions:

- **Policy COS-P1.1:** Greenhouse gas emission impacts from proposed development projects shall be evaluated as required by the CEQA.
- **Policy COS-P1.2:** New development projects shall mitigate greenhouse gas emissions on-site or as close to the site as possible.

#### Chico 2030 General Plan

The *Chico 2030 General Plan* includes the following policies related to GHG emissions:

- **Policy SUS-6.1, Greenhouse Gas Reduction Efforts:** Support local, regional, and statewide efforts to reduce emissions of greenhouse gases linked to climate change.
- **Policy SUS-6.2, Greenhouse Gas Inventory and Climate Action Plan:** Maintain a Greenhouse Gas Emissions Inventory and implement the Climate Action Plan to make progress toward meeting the City's greenhouse gas emissions reduction goal.
- **Policy SUS-6.3, Greenhouse Gas Emissions and CEQA:** Analyze and mitigate potentially significant increases in greenhouse gas emissions during project review, pursuant to the California Environmental Quality Act.
- **Policy SUS-6.4, Community Trees:** Continue to support the planting and maintenance of trees in the community to increase carbon sequestration.

#### Butte County 2021 Climate Action Plan

The *Butte County 2021 Climate Action Plan* (Placeworks 2021), adopted on December 14, 2021, is Butte County's strategic plan to reduce GHG emissions in the unincorporated county. This climate

action plan updates the previously adopted climate action plan in Butte County, providing updated information, an expanded set of GHG reduction strategies, and a planning horizon out to 2050. Butte County is committed to reducing GHG emissions to 6.0 MT CO<sub>2</sub>e per person by 2030 and 2.0 MT CO<sub>2</sub>e per person by 2050, consistent with the 2017 Scoping Plan guidance. Butte County is also setting forth an interim target of 4.0 MT CO<sub>2</sub>e per person by 2040. The following is a list of climate action plan strategies:

- **Strategy 1:** Continue efforts to promote energy conservation and efficiency opportunities for all residents, building/property owners, and renters in the unincorporated county, including support and promotion of programs for lower- income and disadvantaged populations.
- **Strategy 2:** Continue efforts to promote energy conservation and efficiency opportunities for all nonresidential uses in the unincorporated county, including County facilities, office space, commercial space, and industrial space.
- **Strategy 3:** Work with property owners and property management groups to increase overall building electrification and adoption of modern, efficient appliances in residential rental properties.
- **Strategy 4:** Support efforts to increase renewable and carbon-free energy generation, including wind, solar, and biomass, and to ensure customer access to such renewable energy
- **Strategy 5:** Continue efforts to promote water conservation for all residents, building/property owners, and businesses in the unincorporated county, including support and promotion of programs for lower-income and disadvantaged populations, and large water users.
- **Strategy 6:** Pursue Transportation Demand Management (TDM) strategies, implemented through local land use decisions and through partnerships with local employers, that reduce vehicle miles traveled (VMT) countywide.
- **Strategy 7:** Prioritize bicycling and walking as safe, practical, and attractive travel options countywide.
- **Strategy 8:** Reduce carbon emissions from transportation by facilitating a transition to efficient or clean-fuel vehicles.
- **Strategy 9:** Encourage hybrid and clean-fuel construction and landscaping equipment countywide.
- **Strategy 10:** Reduce the amount of solid waste sent to local landfills through innovative programs and partnerships.
- **Strategy 11:** Reduce emissions from disposal and decomposition of organic waste.
- **Strategy 12:** Work to reduce GHG emissions associated with agricultural equipment, in partnership with regional partners, agencies, and members of the agricultural community.

- **Strategy 13:** Track trends in agricultural operations and encourage existing and new farming techniques that reduce GHG emissions from crop cultivation.
- **Strategy 14:** Work with farmers and local and regional agencies to explore techniques to maximize carbon sequestration of the county's natural and working lands.
- **Strategy 15:** Implement projects and programs to reduce GHG emissions associated with Butte County operations.

### City of Chico Climate Action Plan Update

The *City of Chico Climate Action Plan Update* (Rincon Consultants 2021) was adopted on October 19, 2021. The City of Chico is committed to a GHG emissions reduction target of 2.71 MT of CO<sub>2</sub>e per person (or 292,437 MT of CO<sub>2</sub>e in total emissions) by 2030. This corresponds to an 80 percent reduction in per capita emissions (or a 46 percent reduction in total emissions) below 1990 levels by 2030, exceeding the SB 32 target of 40 percent reduction in total emissions by 2030. To achieve the GHG emissions reduction target, the climate action plan includes 13 measures related to energy efficiency, renewable energy, sustainable transportation, development patterns, solid waste, water, urban trees and greenspace, and community engagement.

## C.9 Hazards and Hazardous Materials

This section identifies the federal, state, and local laws, regulations, orders, policies, and plans that are relevant to the analysis of hazards and hazardous materials in the EIR, Section 3.9.

### C.9.1 Federal

#### Hazardous Waste Management

The Federal Toxic Substances Control Act (1976) and the Resource Conservation and Recovery Act of 1976 (RCRA) established a program administered by the U.S. Environmental Protection Agency (EPA) for the regulation of the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA was amended in 1984 by the Hazardous and Solid Waste Act (HSWA), which affirmed and extended the “cradle to grave” system of regulating hazardous wastes. The use of certain techniques for the disposal of some hazardous wastes was specifically prohibited by HSWA. The statute also addresses program administration; implementation and delegation to the states; enforcement provisions and responsibilities; and research, training, and grant funding.

#### EPA Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP)

The asbestos NESHAP regulations specify work practices for asbestos to be followed during demolition and renovation of all structures, installations, and buildings (excluding residential buildings that have four or fewer dwelling units). 40 CFR Part 61 states that the owner or operator of a demolition or renovation activity and prior to the commencement of the demolition or renovation will thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos. The regulations require the owner of the building or the operator to notify the appropriate state agency before any demolition, or before any renovations of buildings that could contain a certain threshold amount of asbestos or asbestos-containing material. In addition, particular manufacturing and fabricating operations either cannot

emit visible emissions into the outside air or must follow air cleaning procedures, as well as follow certain requirements when removing asbestos-containing waste. 40 CFR Part 61, Subpart M establishes the National Emission Standards for Hazardous Air Pollutants (NESHAP) and names asbestos-containing material as one of these materials. Asbestos-containing material use, removal, and disposal are regulated by U.S. EPA under this law. Work practice standards under the EPA for air toxics regulations would include removing all asbestos-containing materials, adequately wetting all regulated asbestos-containing materials, sealing the material in leak tight containers and disposing of the asbestos-containing waste material as expediently as practicable. In addition, notification of friable asbestos-containing material removal prior to a proposed demolition project is required by this law.

### **Universal Waste Management**

40 CFR Part 273 governs the collection and management of widely generated waste, including batteries, pesticides, mercury-containing equipment, and bulbs. This regulation streamlines the hazardous waste management standards and ensures that such waste is diverted to the appropriate treatment or recycling facility.

### **U.S. Department of Labor, Occupational Safety and Health Administration**

29 CFR Part 1910, Occupational Safety and Health Standards, requires facilities that use, store, manufacture, handle, process, or move hazardous materials to conduct employee safety training; inventory safety equipment relevant to potential hazards; have knowledge on safety equipment use; prepare an illness prevention program; provide hazardous substance exposure warnings; prepare an emergency response plan, and prepare a fire prevention plan.

29 CFR Part 1926 establishes safety and health regulations for construction. These standards require employee training; personal protective equipment; safety equipment; and written procedures, programs, and plans for ensuring worker safety when working with hazardous materials or in hazardous work environments during construction activities, including renovations and demolition projects and the handling, storage, and use of explosives. These standards also provide rules for the removal and disposal of asbestos, lead, lead based paint, and other lead materials.

### **U.S. Department of Transportation**

Transportation of hazardous materials is regulated by the U.S. Department of Transportation's Office of Hazardous Materials Safety. The office formulates, issues, and revises hazardous materials regulations under the Federal Hazardous Materials Transportation Law. The hazardous materials regulations cover hazardous materials definitions and classifications, hazard communications, shipper and carrier operations, training and security requirements, and packaging and container specifications. Vehicles transporting hazardous materials must be properly placarded. In addition, the carrier is responsible for the safe unloading of hazardous materials at the site, and operators must follow specific procedures during unloading to minimize the potential for an accidental release of hazardous materials. The hazardous materials transportation regulations are codified in 49 CFR Parts 100–185.

## **C.9.2 State**

### **California Hazardous Waste Control Law**

The California Hazardous Waste Control Law (HWCL) is administered by the California Environmental Protection Agency (CalEPA) to regulate hazardous wastes. While the HWCL is generally more stringent than RCRA, until the U.S. EPA approves the California program, both the state and federal laws apply in California. The HWCL lists 791 chemicals and about 300 common materials that may be hazardous; establishes criteria for identifying, packaging, and labeling hazardous wastes; prescribes management controls; establishes permit requirements for treatment, storage, disposal and transportation; and identifies some wastes that cannot be disposed of in landfills.

The California Code of Regulations (CCR), Title 22, Chapter 11, Article 2, Section 66261, defines hazardous waste as: a waste that exhibits the characteristics that may: (1) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or (2) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported or disposed or otherwise managed.

According to 22 CCR, substances having a characteristic of toxicity, ignitability, corrosivity, or reactivity are considered hazardous waste. Hazardous wastes are hazardous substances that no longer have a practical use, such as material that has been abandoned, discarded, spilled, or contaminated, or that is being stored prior to proper disposal.

### **California Occupational Safety and Health Administration**

The California Occupational Safety and Health Administration (Cal/OSHA) is the primary agency responsible for worker safety in the handling and use of chemicals in the workplace. Cal/OSHA standards are generally more stringent than federal regulations. The employer is required to monitor worker exposure to listed hazardous substances and notify workers of exposure (8 CCR 337–340). The regulations specify requirements for employee training, availability of safety equipment, accident prevention programs, and hazardous substance exposure warnings.

Cal/OSHA is the agency responsible for enforcement of the construction safety orders of 8 CCR 1529 related to asbestos removal and cleanup. Section 1529 regulates construction-related asbestos exposure involving demolition of structures, removal of asbestos containing materials, asbestos clean-up, or excavation activities which may involve exposure to asbestos. Work practice standards for Cal/OSHA are similar to the EPA, but also include the presence of an asbestos competent person for monitoring during all demolition activities, HEPA filter dust collection systems, and ventilation of enclosed or isolated areas. Section 1532.1 addresses specific measures for construction workers to take if exposed to sources that contain lead, including lead-based paint.

### **Lead-Based Paint**

The California Department of Public Health enforces lead laws and regulations related to the prevention of lead poisoning in children, prevention of lead poisoning in occupational workers, accreditation and training for construction-related activities, lead exposure screening and reporting, disclosures, and limitations on the amount of lead found in products. Accredited lead specialists are required to find and abate lead hazards in a construction project and to perform lead-related construction work in an effective and safe manner. Specific regulations include:

#### California Health & Safety Code Section

105250 Establishes a program to accredit lead-related construction training providers and certify individuals to conduct lead-related construction activities.

California Civil Code Sections 1102 to 1102.16

Requires the disclosure of known lead-based paint hazards upon sale of a property.

California Labor Code Sections 6716 to 6717

Provides for the establishment of standards that protect the health and safety of employees who engage in lead-related construction work, including construction, demolition, renovation, and repair.

California Health & Safety Code Sections 105185 to 105197

Establishes an occupational lead poisoning prevention program to register and monitor laboratory reports of adult lead toxicity cases, monitor reported cases of occupational lead poisoning to ascertain lead poisoning sources, conduct investigations of take-home exposure cases, train employees and health professionals regarding occupational lead poisoning prevention, and recommended means for lead poisoning prevention.

**State Water Resources Control Board**

The State Water Resources Control Board (SWRCB) protects water quality in California by setting statewide policy. The SWRCB supports the nine Regional Water Quality Control Boards, which, within their areas of jurisdiction, protect surface and groundwater from pollutants discharged or threatened to be discharged to the waters of the state. For the City of Chico, the Central Valley RWQCB (CVRWQCB) maintains jurisdiction within the subject basin. This protection is carried out through the issuance and enforcement of National Pollutant Discharge Elimination System (NPDES) permits, called Waste Discharge Requirements (WDRs), regulation of leaking underground storage tanks and contaminated properties through the Leaking Underground Storage Tank (LUST) and Spills, Leaks, Investigation, and Cleanup (SLIC) programs, respectively. USTs are regulated under Chapter 6.7 of the California Health and Safety Code and 23 CCR Chapter 16.

**California Health and Safety Code – Handling and Storage of Hazardous Waste**

In California, the handling and storage of hazardous materials is regulated by Chapter 6.95 of the California Health and Safety Code. Under Sections 25500–25543.3, facilities handling hazardous materials are required to prepare a Hazardous Materials Business Plan. The plan provides information to the local emergency response agency regarding the types and quantities of hazardous materials stored at a facility and provides detailed emergency planning and response procedures in the event of a hazardous materials release. In the event that a facility stores quantities of specific acutely hazardous materials above the thresholds set forth by the California code, facilities are also required to prepare a Risk Management Plan and California Accidental Release Plan, which provides information on the potential impact zone of a worst-case release, and requires plans and programs designed to minimize the probability of a release and mitigate potential impacts.

**California Health and Safety Code – Transportation of Hazardous Waste**

In California, transportation of hazardous waste is regulated under Chapter 6.5 of the California Health and Safety Code. Under Section 21560, hazardous waste generators must complete a

manifest for the waste before it is transported or offered for transportation. A manifest is a shipping document that is signed by the hazardous waste generator and contains the necessary information to be in compliance with all state and federal regulations. The purpose of the manifest is to allow for the waste to be tracked from point of origin through point of disposal and for the generator or regulatory agency to verify that the waste is properly delivered without incurring any loss along the way. The enforcement agencies for the transportation of hazardous materials regulations are the California Highway Patrol and Caltrans.

### **Emergency Response/Evacuation Plans**

The state of California passed legislation authorizing the Office of Emergency Services (CalOES) to prepare a Standard Emergency Management System program, which sets forth measures by which a jurisdiction should handle emergency disasters. Non-compliance with the program could result in the state withholding disaster relief from the non-complying jurisdiction in the event of an emergency disaster.

### **California Disaster and Civil Defense Master Mutual Aid Agreement**

The California Disaster and Civil Defense Master Mutual Aid Agreement states that all resources and facilities of the state, including all political subdivisions, shall voluntarily aid and assist each other in the event of a disaster by the interchange of services, including rescue, relief, evacuation, rehabilitation, and reconstruction (CalOES 1950).

## **C.9.3 Regional and Local**

### **Butte County Emergency Response**

The Butte County Local Hazard Mitigation Plan (LHMP) was prepared to reduce risks for hazards by helping decision makers direct mitigation activities and resources. The LHMP documents the hazard mitigation planning process and identifies relevant hazards and vulnerabilities facing the county. The LHMP also includes the strategies the County will use to increase resiliency in the face of hazardous situations. This multi-jurisdictional plan includes Butte County, the cities of Biggs, Chico, Gridley, Oroville, and the Town of Paradise, as well as a number of public utilities and services agencies serving the area. According to the LHMP's Hazard Identification Assessment, the most significant hazards in the county are dam failure, 100, 200, and 500-year floods, levee failure, and wildfire (Butte County 2019). Butte County has adopted a multi-jurisdictional Emergency Operations Plan (EOP), which assigns functions and tasks consistent with California's Standardized Emergency Management System and the National Incident Management System. The intent of the EOP is to provide direction on how to mobilize and respond to an emergency from onset to recovery (Butte County 2011).

The Butte Emergency Command Center is the mutual aid coordination center for Butte County. They have the responsibility for coordinating all mutual aid requests in Butte County and have the authority to directly obtain resources from neighboring counties including Yuba, Sutter, Plumas, Glenn, Colusa, Tehama, and Lassen (Butte County 2018c). Butte County is also part of the California Disaster and Civil Defense Master Mutual Aid Agreement and is able to share or receive resources and/or services with other jurisdictions within California in the event of a disaster or emergency situation.

## Hazardous Materials Joint Powers Agreement

The Hazardous Materials Joint Powers Agreement (JPA) was initiated in December 1990 by Butte County and its five cities: Biggs, Chico, Gridley, Oroville, and the Town of Paradise. The JPA is governed by the fire chiefs of the six signatory agencies (including Butte County). The Chico Fire Department (CFD) provides 11 of the 40 authorized state certified specialist positions on the team. The nearest specialists are dispatched to any hazardous materials emergency, regardless of jurisdiction (Butte LAFCO 2018).

## City of Chico 2030 General Plan

The City's 2030 General Plan includes a number of goals, policies and actions that address the use, handling, storage, and transport of hazardous materials and emergency response in the event of a fire or other city-wide emergency. Relevant goals, policies and actions are as follows.

### Safety Element

The General Plan provides several policies and actions related to emergency preparedness, fire hazards, public safety, and emergency response planning.

**Goal S-1-:** Minimize the loss of life and property resulting from natural and human-caused hazards.

**Policy S-1.1 (Emergency Preparedness)** – Promote public safety from hazards that may cause death, injury, or property damage through emergency preparedness and awareness.

**Action S-1.1.1 (Emergency Plan Maintenance)** – Maintain, and update as needed, the City's Emergency Plan to guide emergency management in the City.

**Action S-1.1.2 (Emergency Response Awareness)** – Promote community preparedness for hazards and awareness of emergency notification methods.

**Action S-1.1.3 (Incident Training)** – Continue to participate in the Federal Emergency Management Agency's National Incident Management System program, which provides a standardized approach to emergency incidents.

**Goal S-4:** Continue to provide effective and efficient fire protection and prevention services to Chico area residents.

**Policy S-4.1 (Fire Safety Staffing)** – Maintain adequate fire suppression and prevention staffing levels.

**Policy S-4.2 (Interagency Coordination)** – Continue to maintain interagency relationships to maximize fire protection services and support programs that reduce fire hazards.

**Policy S-4.3 (Fire Safety Standards and Programs)** – Support the development and implementation of standards and programs to reduce fire hazards and review development and building applications for opportunities to ensure compliance with relevant codes.

**Goal S-8:** Reduce the potential for public exposure to hazardous materials or the accidental releases of toxic or hazardous substances.

**Policy S-8.1 (Hazardous Materials Safety Coordination)** – Support efforts to reduce the potential for accidental releases of toxic and hazardous substances.

**Action S-8.1.1 (Planning for Hazardous Materials Safety)** – Consult with the State Office of Emergency Services, the State Department of Toxic Substances Control, the California Highway Patrol, Butte County, and other relevant agencies regarding hazardous materials routing and incident response programs.

**Policy S-8.2 (Reduce Toxic Materials Use)** – Reduce the use of hazardous and toxic materials in City operations.

### **City of Chico Emergency Response**

As part of the Butte County LHMP, a Hazard Identification Assessment was conducted for the City of Chico, indicating that drought and water shortage, earthquake and liquefaction, 100-, 200-, and 500-year floods, heavy rain and storms, and wildfire are the hazards with the most widespread potential impact. The City has established a number of agreements and procedures regarding response to emergency situations. This includes standard emergency response procedures in line with the CalOES Standard Emergency Management System program, which sets forth measures by which a jurisdiction should handle emergency disasters and mutual aid agreements for emergency assistance. These emergency response measures are included in the Butte County EOP, such established roles for command/management, communication protocols, and establishment of priorities for resource allocation (Butte County 2011). The City maintains numerous mutual aid agreements, including those with Butte County, CSU, Chico's University Police Department, and all other jurisdictions of the state during emergency situations (in accordance with the California Disaster and Civil Defense Master Mutual Aid Agreement) for fire, police, evacuation, and rescue, among other shared services. The General Plan identifies Highway 99 and State Route 32 as emergency routes for evacuation within the city.

### **Town of Paradise 1994 General Plan**

The Town's 1994 General Plan includes a number of goals, objectives, and policies that address the use, handling, storage, and transport of hazardous materials and emergency response in the event of a fire or other town-wide emergency. Relevant goals, policies and actions are as follows.

#### Safety Element

The General Plan provides several goals, objectives, and policies related to emergency preparedness, fire hazards, public safety, and emergency response planning.

**Goal SG-1:** Assure that law enforcement and fire protection services are enhanced sufficiently to meet the demands of new and existing land use development

**Goal SG-2:** Provide adequate access, including emergency vehicle access and evacuation, to all new parcels and existing parcels where feasible.

**Goal SG-3:** Strive to protect the Paradise community from injury, loss of life and property damage resulting from catastrophes and hazardous conditions.

**Goal SG-6:** Improve the communication systems used during townwide emergencies, such as wildland fires, earthquakes or volcanic occurrences.

**Objective SO-2:** Maintain an overall fire insurance (ISO) rating of three or better, and an emergency fire response within five minutes for 90% of all emergency incidents within town limits.

**Objective SO-3:** Maintain the *Paradise Multihazard Disaster Plan* and conduct practice exercises throughout the life of the *General Plan*.

**Policy SP-1** - New and unmitigated land use development shall not cause the police and fire protection services emergency response times to fall below the service levels established by this plan.

**Policy SP-2** - Through the development review process, adequate roads shall be required to be constructed and/or improved for emergency vehicle access, particularly in high wildland fire hazard areas.

**Policy SP-3** - Future development should be designed and constructed to take maximum advantage of known fire and crime prevention siting, orientation and building techniques.

**Policy SP-5** - The town should promote fire prevention by continuing to require brush removal and fuel load clearing as ongoing conditions of development approval and property maintenance.

**Policy SP-8** - The town shall encourage Butte County to enforce standards conforming to the fire safety standards established by the state Board of Forestry for state responsibility areas within the Paradise secondary and tertiary planting areas, including:

- Road standards for fire equipment access
- Standards for signs identifying streets, roads and buildings
- Minimum private water supply reserves for emergency fire use
- Fuel breaks and greenbelts
- Land use policies and safety standards that take into account the recurrent nature of wildland fires
- Design standards establishing minimum road widths and clearances around structures
- Emergency preparedness protocol and procedures
- Maximum length of cul-de-sac roadways

**Policy SP-13** - The town shall attempt to require all new development to comply with the airport height restriction policy, airport safety area(s) policies and land use guidelines for safety compatibility of the Paradise Skypark Airpon Land Use Plan.

**Policy SP-14** - Detrimental and toxic discharge into natural waterways shall not be permitted.

#### Hazardous Waste Management Element

The General Plan provides several goals, objectives, and policies related to the use, handling, storage, and transport of hazardous materials.

**Goal SG-7:** Provide for the safe disposal and handling of toxic and hazardous waste.

**Goal SG-8:** Direct and promote hazardous waste management practices and technologies that will, in order of priority:

- reduce the use of hazardous substances and the generation of hazardous wastes at their source;
- recover and recycle the remaining waste for reuse to the extent feasible;
- treat those wastes not amenable to source reduction or recycling so that the environment and community health are not harmed by their ultimate release or disposal;
- ensure the safe transportation and disposal of treated hazardous waste residuals in repositories made secure from liquids that might create a toxic leachate and contaminate groundwater.

**Goal SG-9:** Reduce the need for additional hazardous waste disposal sites.

**Objective SO-7 -** Minimize the generation of hazardous wastes by seeking waste reduction alternatives which are safe, economically viable, and which represent the best technology available to the generator.

**Policy SP-24 -** The county, and each city, shall require that all local land use decisions on siting specified hazardous waste management facilities are consistent with the goals and policies and the siting criteria contained in the Hazardous Waste Management Plan.

## C.10 Hydrology and Water Quality

This section identifies the federal, state, and local laws, regulations, orders, policies, and plans that are relevant to the analysis of hydrology and water quality in the EIR, Section 3.10.

### C.10.1 Federal

#### Clean Water Act

The Federal Water Pollution Control Act of 1948 was the first major United States law to address water pollution. Upon sweeping amendments made in 1972, the law became commonly known as the Clean Water Act (CWA) (33 USC § 1251). The CWA established the structure for regulating discharge of pollutants into waters of the United States and regulating quality standards for surface waters.

#### Clean Water Act Section 404

CWA Section 404 (33 USC § 1344) enables regulation of the discharge of dredged or fill material into waters of the United States, including wetlands. The basic premise of the program is that no discharge of dredged or fill material may be permitted if: (1) a practicable alternative exists that is

less damaging to the aquatic environment or (2) the nation's waters would be significantly degraded. To comply with these objectives, a permittee must document the measures taken to avoid and minimize impacts on waters of the United States and provide compensatory mitigation for any unavoidable impacts.

### **Clean Water Act Section 401**

Under CWA Section 401 (33 USC § 1341), federal agencies are not authorized to issue a permit or license for any activity that may result in discharges to waters of the United States, unless a state or tribe where the discharge originates either grants, waives or denies CWA Section 401 certification. Granting certification, with or without conditions, allows the federal permit or license to be issued and remain consistent with any conditions set forth in the CWA Section 401 certification. Decisions made by states or tribes are based on the proposed project's compliance with USEPA water quality standards as well as applicable effluent limitations guidelines, new source performance standards, toxic pollutant restrictions, and any other appropriate requirements of state or tribal law. In California, the State Water Resources Control Board is the primary regulatory authority for CWA Section 401 requirements (additional details are provided in the following subsections).

### **National Pollutant Discharge Elimination System**

The NPDES permit was established in the CWA to regulate municipal and industrial discharges to surface waters of the US. The ultimate objective of the CWA is zero pollutant discharge, but it recognizes the need for a system to regulate non-zero pollutant discharges until the zero-pollutant objective is feasible. CWA Section 402 established NPDES for this purpose. The NPDES regulates all pollutant discharges, particularly point source discharges, to the waters of the US.

### **Construction General Permit**

The Construction General Permit (CGP; NPDES No. CAS000002, SWRCB Order No. 2009-0009-DWQ, adopted on November 16, 2010) became effective on February 14, 2011, and was amended by Order No. 2010-0014-DWQ and Order No. 2012-0006-DWQ. The CGP authorizes the discharge of stormwater (and certain unauthorized non-stormwater discharges) from construction sites that disturb 1 acre or more of land, and from smaller sites that are part of a larger, common plan of development. For all projects subject to the CGP, the applicant is required to hire a qualified developer to develop and implement an effective Stormwater Pollution Prevention Plan (SWPPP). All project registration documents, including the SWPPP, are required to be uploaded into the State Water Resources Control Board's online Stormwater Multiple Application and Report Tracking System at least 30 days prior to construction.

### **Section 14 of the Rivers and Harbors Appropriation Act of 1899 – Section 408**

Under Section 408 (33 USC § 408), any use or alteration of a Civil Works project is subject to the approval of United States Army Corps of Engineers (USACE). This requirement was established in Section 14 of the Rivers and Harbors Act of 1899. Section 408 provides that USACE may grant permission for another party to alter a Civil Works project upon a determination that the alteration proposed will not be injurious to the public interest and will not impair the usefulness of the Civil Works project.

## C.10.2 State

### Porter-Cologne Water Quality Control Act

The Porter-Cologne Water Quality Control Act (Porter-Cologne) of 1966 (California Water Code Section 13000 et seq.; CCR Title 23, Chapter 3, Subchapter 15) is the primary state regulation that addresses water quality. The requirements of the act are implemented by the State Water Resources Control Board at the state level and the Regional Water Quality Control Board (RWQCB) within the nine regions designated. The RWQCB carries out planning, permitting, and enforcement activities related to water quality in California. The RWQCB is responsible for controlling discharges to surface waters of the state by issuing waste discharge requirements or conditional waivers to waste discharge requirements. Waste discharge requirements are required by the RWQCB for activities that may affect water quality.

### Clean Water Act Section 401 Water Quality Certification

A CWA Section 401 water quality certification is required for activities that require CWA Section 404 permits issued by USACE. As mentioned above, the State Water Resources Control Board has primary regulatory authority for CWA Section 401 requirements for protecting water resources. Enforcement of these requirements is also handled by the nine RWQCBs depending upon location of the potential impacts. The Central Valley RWQCB will be responsible for CWA Section 401 for this project.

### Delegated Permit Authority

California has been delegated permit authority for the National Pollutant Discharge Elimination System (NPDES) permit program, including storm water permits for all areas except tribal lands. Issuance of CWA Section 404 permits remains the responsibility of USACE; however, the state actively uses its CWA Section 401 certification authority to safeguard that CWA Section 404 permits will comply with state water quality standards.

### State Definition of Covered Waters

Under California state law, waters of the state refer to “any surface water or groundwater, including saline waters, within the boundaries of the state” (California Water Code Section 13050). Therefore, water quality laws apply to both surface water and groundwater. After the United States Supreme Court decision in *Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers*, 531 U.S. 159 (2001), the Office of Chief Counsel of the State Water Resources Control Board released a legal memorandum confirming the state’s jurisdiction over isolated wetlands. The memorandum stated that under the California Porter-Cologne Water Quality Control Act (Porter-Cologne), discharges to wetlands and other waters of the state are subject to state regulation, and this includes isolated wetlands. In general, the State Water Resources Control Board regulates discharges to isolated waters in much the same way as they do for waters of the United States, but the regulation is via Porter-Cologne rather than the CWA.

### Central Valley Flood Protection Board (California Code Regs. Title 23, Division 1)

The CVFPB exercises regulatory authority within its jurisdiction to maintain the integrity of the existing flood control system and designated floodways by issuing permits for encroachments. The

CVFPB has mapped designated floodways along more than 60 streams and rivers in the Central Valley. In addition, in the California Code of Regulations (CCR), Title 23, Table 8.1 shows several hundred stream reaches and waterways that are regulated streams. Projects that encroach in a designated floodway or regulated stream, or within 10 feet of the toe of a state-federal flood control structure (levee), require an encroachment permit and the submission of an associated application, including an environmental assessment questionnaire. A project must demonstrate that it will not reduce the channel flow capacity and that it will comply with channel and levee safety requirements. In cooperation with USACE, the CVFPB enforces standards for the construction, maintenance, and protection of adopted flood control plans that will protect public lands from floods. The jurisdiction of the CVFPB includes the Central Valley, including all tributaries and distributaries of the Sacramento River, the San Joaquin River, and designated floodways (23 CCR § 2). The CVFPB has all the responsibilities and authorities necessary to oversee future modifications as approved by USACE pursuant to assurance agreements with USACE and the USACE Operation and Maintenance Manuals under 33 CFR 208.10 and 33 USC 408.

### **State Water Resources Control Board and Regional Water Quality Control Boards**

The SWRCB adjudicates water rights, sets water pollution control policy, issues water board orders on matters of statewide application, and oversees water quality functions throughout the state by approving Basin Plans, TMDLs, and NPDES permits. RWCQBs are responsible for protecting beneficial uses of water resources within their regional jurisdiction using planning, permitting, and enforcement authorities to meet this responsibility.

#### **C.10.3 Regional and Local**

##### **Regional Water Quality Control Board Basin Plan**

The proposed Project is under the jurisdiction of the Central Valley RWQCB. The Central Valley RWQCB implements the *Water Quality Control Plan (Basin Plan) for the California Regional Water Quality Control Board Central Valley Region* (May 2018) to regulate surface and groundwater quality in the region. The Basin Plan covers the entire Sacramento and San Joaquin River Basins. The Basin Plan lists beneficial uses and water quality objectives to protect those uses. The proposed Project is in the Sacramento River Basin and will follow the requirements laid out in that portion of the Basin Plan.

##### **Municipal Separate Storm Sewer Systems**

CWA Section 402(p) requires the issuance of NPDES permits for five categories of stormwater dischargers, including MS4s. EPA defines an MS4 as “any conveyance or system of conveyances (roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels, and storm drains) owned or operated by a state, city, town, county, or other public body having jurisdiction over storm water, that are designed or used for collecting or conveying stormwater.” Pursuant to CWA Section 402, NPDES permits are required and issued for discharges from an MS4 serving a population of 100,000 or more for the Phase I MS4 Municipal Program and serving a population of 10,000 or more for the Phase II Small MS4 Program. As discussed, Butte County operates under Small MS4 stormwater permit.

### **Butte County Groundwater Conservation Ordinance (Chapter 33)**

In November 1996, the voters in Butte County approved an ordinance to protect the groundwater resources in Butte County. One of the stated purposes of the ordinance was that the groundwater underlying Butte County is a significant water resource which must be reasonably and beneficially used and conserved for the benefit of the overlying land by avoiding extractions which harm the Butte Basin aquifer, causing exceedance of the safe yield or a condition of overdraft. The ordinance is now codified as Chapter 33 of the Butte County Code relating to groundwater conservation. The Proposed Project would not extract or use groundwater resources during construction and operations and would not conflict with the Butte County Groundwater Conservation Ordinance.

### **Butte County Integrated Water Resources Plan (IWRP)**

The purpose of the IWRP is to document the stakeholder-centered process used by Butte County to develop water resources policy recommendations for consideration by the Butte County Board of Supervisors. The IWRP is part of the Butte County's proactive Integrated Water Resources Program.

### **Four-County Memorandum of Understanding**

The counties of Butte, Colusa, Glenn, and Tehama share common surface water and groundwater resources. The purpose of the four county MOU is to establish the mutual understandings of the four counties with respect to their voluntary joint efforts toward regional coordination, collaboration and communication. Treated wastewater from the Proposed Project would be discharged into the Sacramento River in accordance with NPDES permitting requirements. The Proposed Project would also include a Frac-out Plan, which would outline all standard BMPs, monitoring, and contingency procedures in the event of frac-out during ground disturbing activities to protect groundwater resources. Therefore, the Proposed Project would not conflict with the Four-County MOU.

### **Butte County General Plan 2030 Water Resources Element**

The Water Resources Element of the *Butte County General Plan 2030* describes the water resources within Butte County and contains goals and policies related to groundwater and surface water conservation and protection. It also provides additional guidance to Butte County related to decisions about water resources. The following goals and policies in the *Butte County General Plan 2030* are relevant to the hydrology and water quality analysis:

- **Goal W-1:** Maintain and enhance water quality.
- **Goal W-2:** Ensure an abundant and sustainable water supply to support all uses in Butte County.
- **Goal W-3:** Effectively manage groundwater resources to ensure a long-term water supply for Butte County.
- **Goal W-4:** Promote water conservation as an important part of a long-term and sustainable water supply.
- **Goal W-5:** Protect water quality through effective stormwater management.

- **Policy W-P1.4:** Where appropriate, new development shall be Low Impact Development (LID) that minimizes impervious area, minimizes runoff and pollution and incorporates best management practices.
- **Policy W-P1.8:** The County supports conversion from septic systems to public sewer service, where feasible.
- **Policy W-P2.1:** The County supports solutions to ensure the sustainability of community water supplies.
- **Policy W-P2.2:** The County may continue the Four-County Memorandum of Understanding (MOU) with Colusa, Glenn, Tehama and Sutter Counties, and may support the development of the Northern Sacramento Valley Integrated Regional Water Management Plan.
- **Policy W-P2.6:** The County supports water development projects that are needed to supply local demands.
- **Policy W-P2.7:** The Butte County Water Commission and the Department of Water Resource Conservation shall continue to be utilized as important partners in the water resource planning process.
- **Policy W-P3.3:** The County shall protect groundwater recharge and groundwater quality when considering new development projects.
- **Policy W-P4.4:** Opportunities to recover and utilize wastewater for beneficial purposes shall be promoted and encouraged.
- **Policy W-P4.6:** New development projects shall adopt best management practices for water use efficiency and demonstrate specific water conservation measures.
- **Policy W-P4.7:** County facilities shall adopt water conservation measures and when appropriate retrofit existing facilities to improve water conservation.
- **Policy W-P5.2:** New development projects shall identify and adequately mitigate their water quality impacts from stormwater runoff.
- **Policy W-P5.4:** Temporary facilities shall be installed as necessary during construction activities in order to adequately treat stormwater runoff from construction sites.

### **Town of Paradise 1994 General Plan**

Chapter 6.6 of the *Town of Paradise 1994 General Plan*, Open Space/Conservation/Energy Element addresses the goals, objectives, policies, and implementation measures related to water resources in the Town. It addressed open space for preservation of natural resources, including rivers, streams and watersheds; and open space for public health and safety, including floodplains, watersheds, and the protection of water quality and reservoirs. The following policies in the *Town of Paradise 1994 General Plan* are relevant to the hydrology and water quality analysis:

- **Policy SP-17:** Development projects shall be designed to minimize soil erosion and shall be required to comply with all Town of Paradise adopted soil erosion standards maintained by the Town Engineering Office.
- **Policy OCEP-22:** Surface and groundwater quality shall be improved and preserved, and the Paradise area watershed shall be protected.
- **Policy OCEP-23:** Stream courses identified and designated as significantly important shall be carefully protected from the impacts of land use development, both within and outside the Town limits.
- **Policy OCEP-25:** Natural riparian vegetation along creeks shall be protected.

### **Town of Paradise Stormwater Ordinance**

The Town of Paradise adopted an ordinance relating to Stormwater Quality Management for the purpose of protecting and promoting the health, safety and general welfare of the citizens of the Town. The purpose of the ordinance is also to protect and enhance the water quality, beneficial uses, habitats and ecosystems in receiving waters by reducing pollution and pollutant loads discharged in urban runoff from areas within the town's jurisdiction, and by prohibiting non-stormwater discharges to municipal storm drain systems.

### **Chico 2030 General Plan Open Space and Environment Element**

The Chico 2030 General Plan Open Space and Environment Element provides context and sets goals and policies for the protection of water resources. The following goals and policies in the *Chico 2030 General Plan* are relevant to the hydrology and water quality analysis:

- **Goal OS-3:** Conserve water resources and improve water quality.
- **Policy OS-3.1, Surface Water Resources:** Protect and improve the quality of surface water.
- **Policy OS-3.2, Protect Groundwater:** Protect groundwater and aquifer recharge areas to maintain groundwater supply and quality.
- **Policy OS-3.3, Water Conservation and Reclamation:** Encourage water conservation and the reuse of water.

### **Chico Urban Area Nitrate Compliance Plan**

The *Chico Urban Area Nitrate Compliance Plan* (Butte County 2000) was prepared in response to the contamination of groundwater in the Chico Urban Area by nitrate, a form of nitrogen, and the subsequent issuance of Prohibition Order No. 90-126 adopted by the Central Valley RWQCB on April 27, 1990. The discharge from individual septic systems was the primary source of groundwater nitrate contamination that exceeded drinking water standards set by the USEPA and the SWRCB. Nitrate levels that exceed the standards pose a threat to the public health and are subject to regulation. The *Chico Urban Area Nitrate Compliance Plan* supersedes the Nitrate Action Plan, which was adopted by the Butte County Board of Supervisors and Chico City Council in 1985.

## C.11 Land Use and Planning

This section identifies the applicable federal, state, and local laws, regulations, orders, policies, and plans that are relevant to the analysis of land use and planning in the EIR, Section 3.11.

### C.11.1 Federal

No identified federal laws, regulations, orders, policies, or plans regarding land use and planning are relevant to the Proposed Project.

### C.11.2 State

#### California State Planning and Zoning Law (California Government Code § 65000 to 66037)

The California State Planning and Zoning Law delegates most of the state's local land use and development decisions to the respective city or county, and describes the laws that pertain to the land use regulations set by the local government's general plan requirements, specific plans, and zoning.

### C.11.3 Regional and Local

#### Town of Paradise "Dig Once" Policy

The Town of Paradise adopted the "Dig Once" Policy in 2019 to rebuild the Town's infrastructure after the 2018 Camp Fire. Per this policy, the Town strives to place all utility lines underground and direct utility agencies and companies to coordinate with each other when constructing and maintaining their infrastructure. This coordination would lessen the impact on the Town's roadways. Full relocation of utilities is estimated to take 5 years to complete, and work has already begun in Paradise. The Policy includes the following pertinent objectives related to land use and planning:

- Minimize disruption of the town's public infrastructure, such as paved roads and sidewalks.
- Ensure efficient, non-duplicative placement of infrastructure in the town's right-of-way (ROW).
- Protect and control access to public ROW and ensure that use of public ROW aligns with the vision for a resilient and modern Town of Paradise.

#### Town of Paradise 1994 General Plan

The *Town of Paradise 1994 General Plan*, adopted in 1994 and amended through 2008, provides direction on land use decision-making for the next 15 years. The General Plan process offers the Town the opportunity to plan proactively rather than reactively for future development. The General Plan includes the following pertinent goals and policies related to land use and planning:

- **Implementation Measure LUI-7:** Continue to implement the Master Storm Drain Study and Facilities Plan
- **Policy ESP-6:** School sites should have on a timely basis access to all utilities and services, including sewer, water, gas, electricity, and drainage.

- **Objective LUO-10:** Consider the construction and installation of a formal sewer system to service the commercial and industrial areas in the town within the fifteen-year planning period.
- **Policy LUP-16:** The Town shall attempt to implement all feasible steps to assure that sewer service is made available to the commercial area of the Town as expeditiously as possible
- **Goal LUG-2:** Accommodate a rate of growth consistent with the physical and infrastructural limitations in Paradise.
- **Objective LUO-2:** Stimulate and accommodate commercial/industrial growth while maintaining the current quality of life.
- **Objective LUO-4:** Carefully manage and control population growth, while stimulating local economic growth.
- **Goal LUG-32:** Assure that all land uses in the town conform to the goals and policies of the *General Plan*.

### **Butte County General Plan 2030**

The *Butte County General Plan 2030*, adopted in 2010 and updated in 2012, provides Butte County direction on how it will fulfill its community vision and manage its future growth. The General Plan addresses all aspects of Butte County's development, including land use, circulation, public facilities, and public safety. The General Plan includes the following pertinent goals and policies related to land use and planning:

- **Goal LU-1:** Continue to uphold and respect the planning principles on which the County's land use map is based.
- **Goal LU-3:** Create communities where there is a sense of well-being where families and neighbors can socialize, interact, and play.
- **Goal LU-5:** Provide adequate land for and promote the development of attractive commercial and industrial areas and uses that provide goods, services, and jobs.
- **Goal LU-9:** Coordinate land development with provision of new services and infrastructure.

### **Chico 2030 General Plan**

The *Chico 2030 General Plan*, adopted in 2011 and amended in 2017, provides the City of Chico a comprehensive, long-range, and internally consistent policy framework for the growth and preservation of Chico. The General Plan consists of guiding principles, goals, policies, and actions to guide the physical development of Chico. The General Plan includes the following pertinent goals and policies related to land use and planning:

- **Goal LU-1:** Reinforce the City's compact urban form, establish urban growth limits, and manage where and how growth and conservation will occur.

- **Goal LU-2:** Maintain a land use plan that provides a mix and distribution of uses that meet the identified needs of the community.

## C.12 Noise and Groundborne Vibration

This section summarizes the federal, state, and local laws, regulations, orders, policies, and plans that are relevant to the analysis of noise and groundborne vibration in the EIR, Section 3.12.

### C.12.1 Federal

#### Noise Control Act of 1972

The Noise Control Act of 1972 (42 USC 4901 to 4918) was the first comprehensive statement of national noise policy. The Noise Control Act declared “it is the policy of the U.S. to promote an environment for all Americans free from noise that jeopardizes their health or welfare.” Although the Noise Control Act, as a funded program, was ultimately abandoned at the federal level, it served as the catalyst for comprehensive noise studies and the generation of noise assessment and mitigation policies, regulations, ordinances, standards, and guidance for many states, counties, and municipal governments. For example, the noise elements of general plan documents and local noise ordinances considered in this analysis were largely created in response to the passage of the Noise Control Act.

#### Occupational Safety and Health Administration

The Occupational Safety and Health Administration established standards for occupational noise exposure under 29 CFR 1910.95. These regulations protect employees from excessive noise exposure and require a Hearing Conservation Program when routine exposure to high noise levels would occur. The regulations identify permissible daily noise exposures and stipulate that personal protection against the effects of noise exposure must be provided if those levels are exceeded.

#### Federal Transit Administration

The Federal Transit Administration (FTA) developed the *Transit Noise and Vibration Impact Assessment Manual* (Noise Manual) in September 2018. The Noise Manual provides technical guidance for conducting noise and vibration analyses for transit projects. While these standards and impact assessment methodologies are not directly applicable to the Proposed Project, they are routinely used as guidelines for projects in state and local jurisdictions. The Noise Manual provides vibration criteria for structural damage by building/structural category as shown in Table C.12-1.

**Table C.12-1. Groundborne Vibration Structural Damage Criteria**

Building Category	PPV (in/sec)	L <sub>v</sub> (VdB)
I. Reinforced concrete, steel, or timber (no plaster)	0.5	102
II. Engineered concrete and masonry (no plaster)	0.3	98
III. Non-engineered timber and masonry buildings	0.2	94
IV. Buildings extremely susceptible to vibration damage	0.12	90

Source: FTA 2018

Notes: PPV = peak particle velocity, in/sec = inch per second, L<sub>v</sub> = vibration velocity level, VdB = vibration decibel

The Noise Manual also includes criteria for acceptable levels of groundborne vibration by vibration-sensitive land uses as shown in Table C.12-2.

**Table C.12-2. Groundborne Vibration Human Annoyance Criteria**

Land Use Category	Maximum $L_v$ (VdB)	Description
Workshop	90	Vibration is distinctly felt. Appropriate for workshops and similar areas not as sensitive to vibration.
Office	84	Vibration can be felt. Appropriate for offices and similar areas not as sensitive to vibration
Residential – daytime	78	Vibration is barely felt. Adequate for land uses that are sensitive to vibration.
Residential – nighttime	72	Vibration is not felt, but groundborne noise may be audible inside quiet rooms.

Source: FTA 2018

Notes:  $L_v$  = vibration velocity level, VdB = vibration decibel

### C.12.2 State

#### California Noise Control Act

The California Noise Control Act, enacted in 1973 (Health and Safety Code 46010 et seq.), finds that excessive noise is a serious hazard to public health and welfare and that exposure to certain levels of noise can result in physiological, psychological, and economic damage. The act declares that the State of California has a responsibility to protect the health and welfare of its citizens through the control, prevention, and abatement of noise. It is the policy of the State to provide an environment for all Californians that is free from noise which jeopardizes their health or welfare. The act requires the Office of Noise Control in the Department of Health Services to aid local communities in developing local noise control programs. The Office of Noise Control also works with the Office of Planning and Research to provide guidance for preparing required noise elements in city and county general plans, pursuant to Government Code Section 65302(f).

#### Office of Planning and Research

The *State of California General Plan 2017 Guidelines* published by the Office of Planning and Research provides a basis for local programs to control and abate environmental noise and to protect residents from excessive exposure (Office of Planning and Research 2017). These guidelines include a noise level/land use compatibility chart that categorizes various outdoor  $L_{dn}$  ranges into up to four compatibility categories: normally acceptable, conditionally acceptable, normally unacceptable, and clearly unacceptable, depending on land use. These normally and conditionally acceptable  $L_{dn}$  ranges are intended to indicate that local conditions (existing noise levels and community attitudes toward dominant noise sources) should be considered in evaluating land use compatibility at specific locations. These guidelines are used by many agencies, environmental planners, and acoustical specialists as a starting point to evaluate the potential for noise impacts on and by a project. The guidelines are also used to evaluate methods for achieving noise compatibility with respect to nearby existing uses.

However, it is important to note that the guidance does not take local conditions into account, including a particular community's sensitivity to noise, noise reduction goals, or assessment of the relative importance of noise pollution. As a result, noise standards developed by local jurisdictions typically differ somewhat from the Office of Planning and Research's guidance.

### C.12.3 Regional and Local

#### Town of Paradise 1994 General Plan

The *Town of Paradise 1994 General Plan* includes the following noise-related policies:

- **Policy NP-1:** Where proposed nonresidential land uses are likely to produce noise levels exceeding the performance standards of Table 6.4-1 at existing or planned noise-sensitive uses, an acoustical analysis shall be required as part NP-7 of the environmental review process so that noise mitigation may be included in the project design.
- **Policy NP-4:** Where noise mitigation measures are required to achieve the standards of Tables 6.4-1 and 6.4-2, the emphasis of such measures shall be placed upon site planning and project design. The use of noise barriers should be considered a supplemental means of achieving the noise standards after all practical design-related noise mitigation measures have been integrated into the project.
- **Policy NP-5:** Acoustical analyses should be prepared in accordance with the requirements of Table 6.4-3.
- **Policy NP-10:** The town shall assure that new development situated near existing residential care and retirement facilities is consistent with the goals, objectives and policies of the Noise Element.

#### Butte County General Plan 2030

The *Butte County General Plan 2030* includes the following policies related to noise:

- **Policy HS-P1.6:** Applicants proposing a new noise-producing development project near existing or planned noise-sensitive uses shall provide a noise analysis prepared by an acoustical specialist with recommendations for design mitigation.
- **Policy HS-P1.7:** Applicants for discretionary permits shall be required to limit noise-generating construction activities located within 1,000 feet of residential uses to daytime hours between 7:00 a.m. and 6:00 p.m. on weekdays and non-holidays.
- **Policy HS-P1.8:** Noise from generators shall be regulated near existing and future residential uses.
- **Policy HS-P1.9:** The following standard construction noise control measures shall be required at construction sites in order to minimize construction noise impacts:
  - Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.

- Locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.
- Utilize quiet air compressors and other stationary noise-generating equipment where appropriate technology exists and is feasible.

**Chico 2030 General Plan**

The *Chico 2030 General Plan* includes the following policies related to noise:

- **Policy N-1.3, Acoustical Analysis:** Where proposed projects are likely to expose noise-sensitive land uses to noise levels exceeding the City’s standards, require an acoustical analysis as part of environmental review so that noise mitigation measures may be identified and included in the project design. The requirements for the content of an acoustical analysis are outlined in Table N-3.

**Noise Ordinances**

The Town of Paradise, City of Chico, and Butte County have established policies and standards that aim to minimize the effects of noise on people through prescriptive construction standards, zoning restrictions, hours of operation, and suppression techniques. Table C.12-3 summarizes the applicable noise standards and policies.

**Table C.12-3. Noise Ordinance Specifications**

Jurisdiction	Noise Criteria
Town of Paradise	The operation of any tools or equipment used in construction, drilling, repair, alteration, or demolition work is prohibited between the hours of 7 p.m. and 6 a.m. on weekdays or at any time on Sundays or holidays.
City of Chico	Construction activities occurring between the hours of 10 a.m. and 6 p.m. on Sundays and holidays, and 7 a.m. and 9 p.m. on other days will be subject to one of the following limits: <ul style="list-style-type: none"> <li>● No individual device or piece of equipment may produce a noise level exceeding 83 dBA at a distance of 25 feet from the source.</li> <li>● The noise level at any point outside of the property plane of the project may not exceed 86 dBA.</li> </ul> The generation of noise in exceedance of 70 dBA at the property line of residential or commercial property is prohibited.
Butte County	Noise sources associated with construction activities occurring within 1,000 feet of residential uses is prohibited between the following hours: <ul style="list-style-type: none"> <li>● Sunset to sunrise on weekdays and non-holidays;</li> <li>● Friday commencing at 6 p.m. through and including 8 a.m. on Saturday, as well as not before 8 a.m. on holidays;</li> <li>● Saturday commencing at 6 p.m. through and including 10 a.m. on Sunday; and</li> <li>● Sunday after the hour of 6 p.m.</li> </ul>

Source: Town of Paradise 2021, City of Chico 2021, and Butte County 2021

**C.13 Population and Housing**

This section identifies the applicable federal, state, and local laws, regulations, orders, policies, and plans that are relevant to the analysis of population and housing conditions in the EIR, Section 3.13.

### **C.13.1 Federal**

No identified federal laws, regulations, orders, policies, or plans regarding population and housing are relevant to the Proposed Project.

### **C.13.2 State**

#### **California Relocation Act (California Government Code § 7260 et seq.)**

The California Relocation Act requires state and local governments to provide relocation assistance and benefits to persons displaced as a result of projects undertaken by state or local governments that do not involve federal funds.

#### **California Department of Housing and Community Development Home Investment Partnerships Program (HOME)**

The California Department of Housing and Community Development Home Investment Partnerships Program (HOME) was created to assist cities, counties, developers, and nonprofit Community Housing Development Organizations (CHDOs) to create and retain affordable housing. It provides grants to cities and counties and low-interest loans to developers. Eligible activities to receive the grant must benefit low-income renters and owners.

### **C.13.3 Regional and Local**

#### **Town of Paradise 1994 General Plan**

The *Town of Paradise 1994 General Plan* provides direction on land use decision-making for the next 15 years. The General Plan process offers the Town the opportunity to plan proactively rather than reactively to future development. The General Plan includes the following pertinent goals and policies related to population and housing:

- **Goal LUG-20:** Develop a strong local economy, recognizing that this is a key element in solving service providers' financial difficulties.
- **Goal LUG-24:** Encourage a sense of community in Paradise.
- **Goal HG-1:** Encourage and facilitate the production of all housing types, from affordable workhorse housing to executive homes, to meet the Town's share of regional housing needs consistent with the overall goals, objectives, and policies of the Paradise General Plan.
- **Goal HG-2:** Improve and preserve safe, decent housing and neighborhoods for all Paradise residents.

#### **Butte County General Plan 2030**

The *Butte County General Plan 2030* provides Butte County direction on how it will fulfill its community vision and manage its future growth. The General Plan addresses all aspects of Butte County's development which includes land use, circulation, public facilities, and public safety. The General Plan includes the following pertinent goals and policies related to population and housing:

- **Policy H-P1.2:** Focus development in the unincorporated areas of the spheres of influence of the cities to accommodate the County's housing allocation.
- **Policy H-P5.1:** Continue to promote housing opportunities for all persons regardless of age, race, religion, gender, marital status, national origin, disability, or other barriers that prevent choice in housing.
- **Goal ED-1:** Improve the local economy by diversifying the economy, reducing the unemployment rate, increasing business revenues to the County, and increasing wages.
- **Policy ED-P1.1:** The County's priority for future growth is creating sustainable jobs and providing a living wage to families to reduce poverty.

### **Chico 2030 General Plan**

The *Chico 2030 General Plan* provides the City of Chico a comprehensive, long-range, and internally consistent policy framework for the growth and preservation of Chico. The General Plan consists of guiding principles, goals, policies, and actions in order to guide the physical development of Chico. The General Plan includes the following pertinent goals and policies related to population and housing:

- **Goal ED-1:** Maintain and implement an Economic Development Strategy to enhance Chico's long-term prosperity.
- **Goal SUS-1:** Balance the environment, economy and social equity, as defined in the General Plan, to create a sustainable Chico.
- **Goal H1:** Increase equal housing opportunities.
- **Goal H2:** Provide housing that is affordable to low incomes.

## **C.14 Public Services**

### **C.14.1 Federal**

No identified federal laws, regulations, orders, policies, or plans regarding public services are relevant to the Proposed Project.

### **C.14.2 State**

#### **California Occupational Safety and Health Administration**

In accordance with the California Code of Regulations, Title 8, Sections 1270 "Fire Prevention" and 6773 "Fire Protection and Fire Fighting Equipment," the California Occupational Safety and Health Administration has established minimum standards for fire suppression and emergency medical services. The standards include guidelines on the handling of highly combustible materials, fire hose sizing requirements, restrictions on the use of compressed air, access roads, and the testing, maintenance, and use of all firefighting and emergency medical equipment.

#### **Uniform Fire Code**

The Uniform Fire Code (California Code of Regulations, Title 24, Part 9) contains regulations relating to construction, maintenance, and use of buildings. Topics addressed in the code include fire department access, fire hydrants, automatic sprinkler systems, fire alarm systems, fire and explosion hazards safety, hazardous materials storage and use, provisions intended to protect and assist fire responders, industrial processes, and many other general and specialized fire-safety requirements for new and existing buildings and the surrounding premises. The Uniform Fire Code also contains specialized technical regulations related to fire and life safety.

### **California Health and Safety Code**

State fire regulations are set forth in Sections 13000 et seq. of the California Health and Safety Code. Regulations address building standards, fire protection and notification systems, fire protection devices such as extinguishers, smoke alarms, high-rise buildings, childcare facility standards, and fire suppression training, among other topics.

### **C.14.3 Regional and Local**

#### **Town of Paradise 1994 General Plan**

The *Town of Paradise 1994 General Plan* provides direction on land use decision-making for the next 15 years. The General Plan process offers the Town the opportunity to plan proactively rather than reactively for future development. The General Plan includes the following pertinent goals and policies related to public services:

- **Goal LUG-4:** Provide adequate public services and infrastructure to meet future need.
- **Goal LUG-6:** Provide cost-effective public services in the community.
- **Goal LUG-8:** Assure that law enforcement and fire protection services are enhanced sufficiently to meet the demands of new and existing land use development.
- **Objective LUO-6:** Maintain a law enforcement response time for emergency police calls of no more than five minutes.
- **Objective LUO-7:** Maintain an overall fire insurance (ISO) rating of three or better, and an emergency fire response within five minutes for 90 percent of all emergency incidents within the Town limits.
- **Policy LUP-12:** The character of future development should be compatible with the town's service delivery abilities and shall not result in service level declines.
- **Policy LUP-13:** The town shall attempt to assure that the rate and character of growth is commensurate with, or does not exceed the current levels of public services, and shall attempt to assure that municipal services can be provided to areas planned for annexation and development.
- **Policy LUP-14:** Growth and land use development should be linked to the availability of public services and facilities, and to the degree of overall infrastructure and environmental constraints affecting property in the town.

- **Policy LUP-20:** New land use development shall not cause the levels of police and fire protection to fall below the service levels established by this plan.

### **Butte County General Plan 2030**

The *Butte County General Plan 2030* provides Butte County direction on how it will fulfill its community vision and manage its future growth. The General Plan addresses all aspects of Butte County's development which includes land use, circulation, public facilities, and public safety. The General Plan includes the following pertinent goals and policies related to public services:

- **Goal PUB-2:** Provide adequate fire protection and emergency medical response services to serve existing and new development.
- **Goal PUB-3:** Maintain a safe environment in Butte County through the enforcement of law.
- **Goal PUB-4:** Support high quality schools and educational facilities for all Butte County residents.
- **Policy PUB-P4.1:** Review of development proposals shall be coordinated with school districts to determine and plan for capacity issues over time.
- **Policy PUB-P4.2:** Review of development proposals shall be coordinated with school districts regarding the location and design of new schools.
- **Policy PUB-P4.4:** Infrastructure development projects shall be coordinated to minimize the cost to the public of building needed schools.
- **Policy PUB-P4.5:** Information on projected population growth and development patterns shall be provided to school districts to facilitate adequate school facilities.
- **Policy PUB-P4.7:** New development projects shall be approved only if the County and the applicable School District finds that existing or planned schools will be adequate to serve it.
- **Goal PUB-5:** Provide library services to meet the informational and social needs of each community.

### **Chico 2030 General Plan**

The *Chico 2030 General Plan* provides the City of Chico a comprehensive, long-range, and internally consistent policy framework for the growth and preservation of Chico. The General Plan consists of guiding principles, goals, policies, and actions in order to guide the City of Chico on the physical development of Chico. The General Plan includes the following pertinent goals and policies related to utilities and service systems:

- **Goal S-4:** Continue to provide effective and efficient fire protection and prevention services to Chico area residents.
- **Policy S-4.1, Fire Safety Staffing:** Maintain adequate fire suppression and prevention staffing levels.

- **Policy S-4.2, Interagency Coordination:** Continue to maintain interagency relationships to maximize fire protection services and support programs that reduce fire hazards.
- **Goal S-5:** Provide a safe, secure environment with responsive police services for the community.
- **Policy S-5.1, Police Services:** Continue to provide fundamental police services based upon rapid response to emergencies and response, control and intervention in conduct that threatens life and property.
- **Policy S-5.4, Collaboration and Coordination:** Maintain strong relationships with local and state law enforcement agencies and participate in joint disaster preparedness planning.
- **Goal PPFS-3:** Support efforts by Chico Unified School District, California State University Chico, Butte College and private educational institutions to maintain and improve educational facilities and services in the City.
- **Policy PPFS-3.1, CUSD Coordination:** Support Chico Unified School District's efforts to provide school sites and facilities that meet the educational needs of the community.

## C.15 Recreation

This section identifies the applicable federal, state, and local laws, regulations, orders, policies, and plans that are relevant to the analysis of recreation in the EIR, Section 3.15.

### C.15.1 Federal

No identified federal laws, regulations, orders, policies, or plans regarding recreation are relevant to the Proposed Project.

### C.15.2 State

#### California Department of Parks and Recreation Rules and Regulations (1999)

The CDPR has established rules and regulations to protect park areas for the enjoyment of future generations and to keep park visitors safe. Topics covered in the rules and regulations include protection of natural scenery, plants and animal life; loaded firearms and hunting; dead and down wood; fires; animals; noise (engine driven electric generators); all vehicle travel; campsite use; refuse; smoking; drones; and cleanup responsibilities.

### C.15.3 Regional and Local

#### Bidwell Park Master Management Plan Update (2008)

Bidwell Park is approximately 3,670 acres and is one of the largest municipal parks in the United States. The Bidwell Park Master Management Plan Update was adopted by the City of Chico in 2008. The plan includes extensive information on the resources present in Bidwell Park and outlines updates and expansions of the existing management goals and objectives. The plan also contains implementing strategies and guidelines for translating the goals and objectives into actions guiding the everyday operation of the Park (City of Chico Park Division 2008).

### **Vegetative Fuels Management Plan (2020)**

The City of Chico is proposing to implement a comprehensive program of work referred to as the Vegetative Fuels Management Plan. The plan is intended to protect lives and property and enhance the natural resources in Chico and covers all land owned and managed by the City of Chico, including parks, greenways, and open spaces. A key component of the Vegetative Fuels Management Plan is the identification of high fire hazard areas in greatest need of treatment, description of how fires can be managed, and development of policies and actions focused on reducing harmful impacts of wildfire in the community (City of Chico Parks Division 2020).

### **Butte County Bikeway Master Plan**

The 2011 Butte County Bikeway Master Plan (Butte County 2011) provides updates to the Countywide Bikeway Master Plan originally adopted in 1998. The 2011 Bikeway Master Plan focuses on connectivity in all the unincorporated areas of Butte County, as well as the cities of Biggs, Chico, Gridley, and Oroville, and the Town of Paradise. The plan is intended to address safety and connectivity between the local communities and within rural areas of Butte County. The plan also serves as a tool to identify Butte County's proposed bicycle network within the *Butte County General Plan 2030* Circulation Element and proposed local development reviews that may involve existing or proposed portions of the network. The Bikeway Master Plan Update will also assist Butte County in its efforts to safely and equitably provide contiguous bicycle facilities in the future and implement roadway projects that are bicycle friendly throughout the unincorporated areas.

### **Town of Paradise 1994 General Plan**

The Open Space, Conservation and Energy Elements of the *Town of Paradise 1994 General Plan* addresses the preservation of open space land for outdoor recreation, including areas of outstanding scenic, historic and cultural value; areas suited for recreation purposes; and areas which link major recreation and open space areas. No recreational goals or policies in the *Town of Paradise 1994 General Plan* are relevant to the Proposed Project.

### **Butte County General Plan 2030**

The Conservation and Open Space Element of the *Butte County General Plan 2030* addresses the conservation, development, and utilization of natural resources in Butte County. The Public Facilities and Services Element addresses public services, infrastructure and facilities provided by Butte County, including parks and recreational facilities. The General Plan also presents information and policy guidance to ensure adequate provision and maintenance of Butte County recreational facilities, parks, and services. Policies applicable to the Proposed Project related to parks and recreation in Butte County are as follows:

- **Policy PUB-P6.1:** Review of development proposals shall be coordinated with public agencies in order to designate sites for new parks and recreation facilities.
- **Policy PUB-P8.7:** New development projects should incorporate multi-use trails and connections to existing trail networks.

## Chico 2030 General Plan

The Parks, Public Facilities, and Services element of the *Chico 2030 General Plan* addresses the community's needs and interests for its parks of all sizes as well as its public facilities and services. There are no recreational goals or policies in the *Chico 2030 General Plan* that are relevant to the Proposed Project.

## C.16 Transportation

This section identifies the applicable federal, state, and local laws, regulations, orders, policies, and plans that are relevant to the analysis of transportation in the EIR, Section 3.16.

### C.16.1 Federal

No identified federal laws, regulations, orders, policies, or plans regarding transportation are relevant to the Proposed Project.

### C.16.2 State

SB 743 (Steinberg 2013), which added PRC § 21099 to CEQA, proposed a change in how transportation impacts are analyzed in transit priority areas to better align local environmental review with statewide objectives. These alignment considerations include reductions to GHG emissions, encouragement of infill mixed-use development in designated priority development areas (PDAs), reductions of regional sprawl land development, and reductions in mobile source VMT. In addition, SB 743 supports and complements the following State Bills and Executive Orders relevant to this project:

- AB 32 requires statewide GHG reductions to be below 1990 levels by 2035 according to SB 375 and ARB established GHG reduction targets for Metropolitan Planning Organizations (MPOs) to achieve in Regional Transportation Plans and Sustainable Community Strategies (RTP/SCS), including targets for the largest MPOs ranging from 13 percent to 16 percent reductions
- SB 391 requires that the California Transportation Plan (CTP) supports an 80 percent reduction in GHGs below 1990 levels by 2050
- Executive Order B-30-15 sets a GHG emissions reduction target of 40 percent below 1990 levels by 2030
- Executive Order S-3-05 sets a GHG emissions reduction target of 80 percent below 1990 levels by 2050
- Executive Order B-16-12 specifies a GHG emissions reduction target of 80 percent below 1990 levels by 2050, specifically for transportation.

In November 2017, OPR released the final proposed update to CEQA Guidelines consistent with SB 743, recommending VMT, both within and outside of transit priority areas, as the most appropriate metric of transportation impact. This metric will align with local environmental review under CEQA and with California's long-term GHG emissions reduction goals.

### C.16.3 Regional and Local

#### Butte County 2020 Regional Transportation Plan/Sustainable Communities Strategy

The *Butte County 2020 Regional Transportation Plan/Sustainable Communities Strategy* (RTP/SCS) specifies the policies, projects, and programs necessary over a 20-year period between 2020 and 2040 to maintain, manage, and improve the region's transportation system. BCAG is the federally designated Metropolitan Planning Organization and the state-designated Regional Transportation Planning Agency for Butte County. The RTP/SCS provides a foundation for transportation decisions by local, regional, and state officials. This foundation is based on a vision of an efficient and environmentally sound multi-modal system.

The RTP/SCS is the region's long-range plan to meet the requirements of California's Sustainable Communities and Climate Change Act of 2008 (SB 375), which calls on regions throughout California to develop a Sustainable Communities Strategy that demonstrates the integration of land use, housing, and transportation for the purpose of reducing GHG emissions from passenger vehicles. The RTP/SCS is intended to be consistent with the California Transportation Plan developed by Caltrans.

#### 2011 Butte County Bicycle Plan

The *2011 Butte County Bicycle Plan* (Butte County 2011) provides Butte County's vision for making bicycling an integral part of the transportation system with its unincorporated limits. The plan includes emphasis on regional connectivity between the local cities of Biggs, Chico, Gridley, Oroville and the Town of Paradise, in addition to the various rural communities and recreational opportunities that exist within Butte County. The plan serves as a tool to identify Butte County's proposed bicycle network within the Butte County General Plan Circulation Element and proposed local development reviews that may involve existing or proposed portions of the bicycle network. The plan will also assist Butte County in its efforts to safely and equitably provide contiguous bicycle facilities in the future, as well as implement roadway projects that are bicycle friendly throughout the unincorporated areas.

#### Town of Paradise 1994 General Plan

Based on the *Town of Paradise 1994 General Plan*, the following are the goals and policies:

- **Goal CG-2:** Provide safe, efficient and effective traffic flow, both within Paradise and between Paradise and its environs.
- **Goal CG-4:** Provide adequate access, including access for emergency vehicles and evacuation, to all new parcels and to existing parcels when feasible.
- **Policy CP-1:** The Town shall strive to maintain a level of service (LOS) "D" or better as the standard for new and existing roadways in the Paradise Planning Area. LOS "D" or better shall be maintained on all local streets within the town limits, and LOS "C" or better shall be maintained whenever feasible.
- **Policy CP-8:** The town should continue to designate and regulate truck routes in order to protect residential areas from unwanted noise and traffic.

- **Policy CP-13:** Automobile dependency within Paradise should be reduced for local residents and visitors by implementing congestion management and trip reduction plan programs that decrease the number of vehicle miles travelled which, in turn, reduces air pollution and congestion and saves energy.
- **Policy CP-15:** Expand public transportation services within Paradise and between Paradise and major employment centers as feasible, based on service demand and financial constraints.

### **Butte County General Plan 2030**

The *Butte County General Plan 2030* has the following goals:

- **Policy CIR-P1.3:** Transportation planning within the municipalities' spheres of influence shall consider the municipalities' land use and circulation plans, as appropriate, and shall be consistent with Policy CIR-P6.1 pertaining to County Levels of Service.
- **Policy CIR-P2.1:** Carpooling shall be encouraged by providing additional carpool pickup and park-and-ride locations near transit centers and at freeway interchanges.
- **Policy CIR-P2.2:** Trip reduction among County employees shall be encouraged. Specific measures to encourage trip reduction could include providing subsidies, bicycle facilities, alternative work schedules, ridesharing, telecommuting and work-at-home programs, employee education and preferential parking for carpools/vanpools.
- **Policy CIR-P2.4:** Employers shall be encouraged to provide transit subsidies, bicycle facilities, alternative work schedules, ridesharing, telecommuting and work-at-home programs, employee education and preferential parking for carpools/vanpools.
- **Policy CIR-P3.10:** Trees located along urban streets shall be protected. If maintenance or upgrading requires tree removal, the trees shall be replaced.
- **Policy CIR-P6.1:** The level of service for County-maintained roads within the unincorporated areas of the county but outside municipalities' sphere of influences (SOIs) shall be level of service (LOS) C or better during the PM peak hour. Within a municipality's SOI, the level of service shall meet the municipality's level of service policy.
- **Policy CIR-P6.3:** Project approval shall be conditioned on the provision of roadway improvements to meet the level of service standards in policies CIR-P6.1 and CIR-P6.2. Exceptions to satisfying the level of service standards and/or constructing transportation facilities to the County's design standards may be allowed on a case-by-case basis where reducing level of service or not constructing a transportation facility to County standards would result in a clear public benefit. Such circumstances may include, but are not limited to the following:
  - Conserving agricultural or open space land.
  - Enhancing the agricultural economy.

- Protecting scenic roadways or highways.
- Preserving downtown community environments.
- **Policy CIR-P6.5:** Street improvements within the sphere of influence of an incorporated municipality shall conform to the street standards of that municipality.
- **Policy CIR-P7.2:** Existing road capacity available within the County road system shall be used to serve future development unless construction of a new road will enhance circulation opportunities.

### Chico 2030 General Plan

Based on the *Chico 2030 General Plan*, the following are the policies:

- **Policy CIRC-1.4, Level of Service Standards:** Maintain LOS D or better for roadways and intersections at the peak PM period, except as specified below:
  - LOS E is acceptable for City streets and intersections under the following circumstances: Downtown streets, arterials served by scheduled transit, and arterials not served by scheduled transit, if bicycle and pedestrian facilities are provided within or adjacent to the roadway.
  - Utilize Caltrans LOS standards for Caltrans' facilities.
  - There are no LOS standards for private roads.
  - If improvements necessary to achieve the LOS standard results in impacts to a unique historical resource, a highly sensitive environmental area, requires infeasible right-of-way acquisition, or some other unusual physical constraint exists.
  - If the intersection is located within a corridor that utilizes coordinated signal timing, in which case, the operation of the corridor as a whole should be considered.
- **Policy CIRC-1.5, Vehicle Miles Travelled Analysis:** Consistent with State law, implement VMT assessments as part of the environmental review process under CEQA.
- **Policy CIRC-1.7, Goods Movement:** Provide clear routes for goods delivery
- **Policy CIRC-2.2, Circulation Connectivity and Efficiency:** Provide greater street connectivity and efficiency for all transportation modes.
- **Policy CIRC-9.1, Reduce Peak-Hour Trips:** Strive to reduce single occupant vehicle trips through the use of travel demand management strategies.
- **Policy CIRC-9.3, Emphasize Trip Reduction:** Emphasize automotive trip reduction in the design, review, and approval of public and private development.

## C.17 Tribal Cultural Resources

This section identifies the federal, state, and local laws, regulations, orders, policies, and plans that are relevant to the analysis of tribal cultural resources in the EIR, Section 3.17.

### C.17.1 Federal

#### Indian Trust Assets

ITAs are legal interests in property held in trust by the United States for Native American tribes or individuals. Examples of potential ITAs are lands, minerals, fishing rights, and water rights.

Management of ITAs is based on the following orders, agreements, and regulations:

- Executive Order 13175, Consultation and Coordination with Indian Tribal Governments 65 FR 67249
- Memorandum on Government-to-Government Relations With Native American Tribal Governments (FR Volume 59, Number 85, signed April 29, 1994)
- Secretarial Order No. 3175 – Departmental Responsibilities for Indian Trust Resources
- Secretarial Order No. 3206 – American Indian Tribal Rights, Federal -Tribal Trust Responsibilities, and the federal Endangered Species Act (ESA)
- Secretarial Order No. 3215 – Principles for the Discharge of the Secretary’s Trust Responsibility
- Secretarial Order No. 3342 – Identifying Opportunities for Cooperative and Collaborative Partnerships with Federally Recognized Indian Tribes in the Management of Federal Lands and Resources
- Secretarial Order No. 3335 – Reaffirmation of the Federal Trust Responsibility to Federally Recognized Tribes and Individual Indian Beneficiaries

#### American Indian Religious Freedom Act of 1978

The American Indian Religious Freedom Act of 1978 (AIRFA; 42 U.S.C. § 1996) protects the rights of Native Americans to exercise their traditional religions by ensuring access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.

#### Historic Sites Act of 1935

The Historic Sites Act of 1935 (54 U.S.C. 320101–320106, formerly 16 U.S.C. 461–467) declares “...that it is a national policy to preserve for public use historic sites, buildings, and objects of national significance...,” asserting historic preservation as a government duty under jurisdiction of the United States Secretary of the Interior.

## National Historic Preservation Act

Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties. For purposes of the discussion regarding tribal cultural resources, it is important to note that historic properties include properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization that meet the National Register criteria (36 C.F.R. § 800.16[!]).<sup>1</sup>

## Traditional Cultural Properties (TCP) and Traditional Cultural Landscapes (TCL)

TCPs are properties associated with cultural practices or beliefs of a living community that are: (1) rooted in that community's history; and (2) important in maintaining the continuing cultural identity of a community. TCPs can refer to properties of importance to any community, including Indigenous communities. The appropriate terminology for sites of importance to Indian tribes is 'historic property of religious and cultural significance to an Indian tribe [and Native Hawaiian organization]' (ACHP 2008:19; ACHP 2011:14).

A TCL encompasses the same meaning and utility, as well as inclusivity of Indigenous communities. The Secretary of the Interior's Guidelines for the treatment of cultural landscapes define a cultural landscape as "a geographic area (including both cultural and natural resources and the wildlife or domestic animals therein), associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values" (Birnbaum and Peters 1996:4). Historic vernacular landscapes "evolved through use by the people whose activities or occupancy shaped them" and ethnographic landscapes "contain a variety of natural and cultural resources that associated people define as heritage resource" (Birnbaum and Peter 1996:4; Ball et al. 2015:7).

National Register Bulletin 38 provides examples of TCPs and TCLs that fit the definition in the guidelines (Parker and King 1998:1):

- A location associated with the traditional beliefs of a Native American group about its origins, its cultural history, or the nature of the world
- A rural community whose organization, buildings and structures, or patterns of land use reflect the cultural traditions valued by its long-term residents
- An urban neighborhood that is the traditional home of a particular cultural group, and that reflects its beliefs and practices
- A location where Native American religious practitioners have historically gone, and are known or thought to go today, to perform ceremonial activities in accordance with traditional cultural rules of practice
- A location where a community has traditionally carried out economic, artistic, or other cultural practices important in maintaining its historic identity

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<sup>1</sup> The terminology for NHPA is relative to federally recognized tribes. CEQA terminology, however, is inclusive of Native American tribes regardless of federal recognition.

TCPs and TCLs are eligible for inclusion on the NRHP if they meet the criteria set forth in 36 C.F.R. § 60.4, National Register Criteria for Evaluation. The steps in the identification and evaluation of TCPs are the following (abbreviated from Parker and King 1998:11-14):

1. Potential Traditional Cultural Properties must be identified through consultation with the affected community or Tribe.
2. The investigation must consider the beliefs and practices associated with a potential Traditional Cultural Properties from the perspective of the community or Tribe.
3. The potential Traditional Cultural Properties must be a property, that is, a tangible place on the landscape, rather than an intangible belief or practice.
4. The property must retain integrity of relationship with the beliefs and practices that give it meaning to the community or Tribe.
5. The property must retain integrity of condition, such that the elements of the property associated with the beliefs and practices that give it significance are present.
6. The property must meet one or more of the four criteria for eligibility on the National Register (see Section C.5.1).

Cultural resources routinely not considered for eligibility for inclusion in the NRHP are religious properties, moved properties, birthplaces and graves, cemeteries, reconstructed properties, commemorative properties, and properties achieving significance within the past 50 years. However, these resources, can be evaluated as eligible if they meet one or more of the NRHP eligibility criteria for evaluation, retain integrity, and meet special criteria requirements called criteria considerations. The most notable of the seven considerations (A through G) is Criteria Consideration G, which specifies that a property that has achieved significance within the last 50 years can qualify for the NRHP only if it is of exceptional importance. As noted by Parker and King (1998:17–18), “a significance ascribed to a property only in the past 50 years cannot be considered traditional.” However, they also note: “The fact that a property may have gone unused for a lengthy period of time, with use beginning again only recently, does not make the property ineligible for the [National Register]” (Parker and King 1998:14).

If a property is determined to be a TCP, it becomes the responsibility of the lead agency to assess whether the proposed project would have an effect on the property, and should the effect be adverse, would it alter or destroy the elements that make the property significant and eligible. If a proposed project is determined to have an adverse effect, the lead agency is responsible for seeking measures that would mitigate the adverse effects to TCPs.

## **C.17.2 State**

### **Tribal Cultural Resources**

As defined at PRC § 21074, a TCR is a site, feature, place, cultural landscape, sacred place or object that is of cultural value to a California Native American tribe, and is either: (1) on or eligible for the CRHR or a local historic register; or (2) the lead agency, at its discretion, chooses to treat the resource as a TCR. TCRs are similar to TCPs in terms of their characteristics, identification, and

treatment, and may include a cultural landscape to the extent that the landscape is geographically defined in terms of the size and scope of the landscape. Additionally, as defined at PRC § 21074, a historical resource, a unique archaeological resource, or a non-unique archaeological resource may also be a TCR if it conforms to the criteria of a TCR in PRC § 21074(a). CEQA mandates that lead agencies determine whether a project will have a significant impact on TCRs that are eligible for listing on the CRHR (i.e., a historical resource), or are determined to be significant by the lead agency in order to appropriately mitigate any such impacts.

Under the CEQA Guidelines, even if a resource is not included on any local, state, or federal register, or identified in a qualifying historical resources survey, a lead agency may still determine that any resource is a historical resource (i.e., TCR) for the purposes of CEQA, if there is substantial evidence supporting such a determination (CEQA Guidelines § 15064.5[a]). A lead agency must consider a resource to be historically significant if it finds that the resource meets the criteria for listing in the CRHR. A resource may be eligible for inclusion in the CRHR if it:

- Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage (Criterion 1);
- Is associated with the lives of persons important in our past (Criterion 2);
- Embodies the distinctive characteristics of a type, period, region, or method of construction or represents the work of an important creative individual or possesses high artistic values (Criterion 3); and/or
- Has yielded, or may be likely to yield, information important in prehistory or history (Criterion 4).

In accordance with CEQA guidelines, cultural resources investigations are necessary to identify TCRs that may have significant impacts as a result of a project (14 CCR §15064.5). The following steps are routinely implemented in a cultural resources' investigation for CEQA compliance:

1. Identify cultural resources in the proposed project area
2. Evaluate against the CRHR criteria of significance (listed below)
3. Evaluate the impacts of the proposed project on all cultural/tribal resources
4. Develop and implement measures to mitigate proposed project impacts on historical resources or resources deemed significant by the lead agency

As TCRs hold cultural value to a California Native American tribe, consultation with local Native American tribes is an integral component of each of the cultural resources' investigation steps described above.

### **Assembly Bill 52 and Consultation**

The lead agency for CEQA is responsible for consultation with Native American tribes regarding the potential for a project to impact TCRs, pursuant to AB 52 and PRC §§ 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, 21084.3, and 5097.94(m). AB 52 recognizes that "...tribes may have expertise with regard to their tribal history and practices, which concern the tribal cultural

resources with which they are traditionally and culturally affiliated...” and that consultation will occur between a lead agency and Native American tribes for covered projects.

PRC §21080.3.1 (a) and Government Code §65352.4 define consultation as “the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation shall also recognize the tribes’ potential needs for confidentiality with respect to places that have traditional tribal cultural significance.”

As described in Section 3.10, Cultural Resources, a proposed project may induce a significant impact to a historical resource, unique archaeological resource, or a TCR if it causes a substantial adverse change (i.e., physical demolition, destruction, relocation, or alteration) to the resource or immediate surroundings (14 CCR 15064.5[b]), thereby demolishing or significantly altering the physical characteristics that qualify it for listing on the CRHR or local registers (PRC §§ 5020.01[k] and 5024.1[g]). A project that may cause a substantial adverse change in the significance of a TCR is a project that may have a significant effect on the environment (PRC § 21084.2). A lead agency shall establish measures to avoid impacts that would alter significant characteristics of a TCR, when feasible (PRC §21084.3).

As such, the Town is committed to working together with tribes and consultation efforts with California Native American tribes are described below.

### **Native American Historical, Cultural, and Sacred Sites**

Pursuant to PRC 5097.94 the NAHC has authority and duty to “identify and catalog places of special religious or social significance to Native Americans, and known graves and cemeteries of Native Americans on private lands” and has the power and duty to make recommendations for acquisition by the state or other public agencies regarding Native American sacred places that are located on private lands, are inaccessible to Native Americans, and have cultural significance to Native Americans.

### **California Native American Graves Protection and Repatriation Act of 2001**

The California Native American Graves Protection and Repatriation Act of 2001 (CaINAGPRA) requires all state agencies and museums that receive state funding and that have possession or control over collections of human remains or cultural items to provide a process for the identification and repatriation of these items to the appropriate tribes.

### **California Native American Traditional Tribal Cultural Places (SB 18)**

SB 18 provides California Native American tribes an opportunity to participate in local land use decisions at an early planning stage for the purpose of protecting or mitigating impacts to cultural places. SB 18 requires local governments to consult with tribes prior to making certain planning decisions, including the adoption and amendment of general plans.

### C.17.3 Regional and Local

#### Town of Paradise 1994 General Plan

Section 3.15 (Scenic and Cultural Resources) of the *Town of Paradise 1994 General Plan* details the Town's procedures for complying with the state and federal policies outlined above with regards to cultural resources. As discussed above, a TCR is a cultural resource of cultural value to a California Native American tribe and is therefore incorporated into the procedures codified in the various policy statements and implementation measures of the General Plan. The General Plan includes the following goals, policies, and implementation measures related to TCRs:

- **Goal OCEG-9:** Identify, record, preserve, and protect historical and archeological resources.
- **Policy OCEP-36:** The *Land Use Constraints Diagram* identifies areas of potential archaeological sensitivity. Proposed development or public works projects within this area shall be required to undertake an archaeological survey prior to project approval. Proposed projects outside this area, in locations that have not been significantly disturbed, shall be referred to the California Archaeological Inventory, Northeast Information Center, California State University, Chico to undertake an archaeological survey prior to project approval upon recommendation by the Center.
- **Implementation Measure OCEI-18:** Require compliance of all development projects with Appendix K (archeological impacts) of the *Guidelines for Implementation of the California Environmental Quality Act*.
- **Implementation Measure OCEI-19:** When an archaeological survey is required by the Town or recommended by the California Archaeological Inventory, Northeast Information Center, the survey shall be undertaken by a qualified professional archaeologist who is certified by the Society of Professional Archaeologists or has equivalent qualifications.
- **Implementation Measure OCEI-20:** Should any historic or pre-historic artifacts be discovered during construction, all work shall cease until a qualified professional archaeologist views the site, provides recommendations and gives clearance to continue.

#### Butte County General Plan 2030

Chapter 8 of the *Butte County General Plan 2030* details Butte County's protocols to identify, protect, and preserve cultural resources important to Native American groups in line with state and federal regulations, and specifies the mandated steps to identify, avoid, and mitigate (if necessary) effects to cultural resources. To this end, Butte County adopted three goals specific to cultural resources in the General Plan:

- **Goal COS-14:** Preserve important cultural resources
- **Goal COS-15:** Ensure that new development does not adversely impact cultural resources.
- **Goal COS-16:** Respect Native American culture and planning concerns

In support of these policies, the General Plan includes the following policies:

- **Policy COS-P14.1:** Historic and cultural resources management shall be coordinated with nearby jurisdictions, including the five incorporated municipalities, the Lassen and Plumas National Forests, other planning and regulatory agencies, and local tribes.
- **Policy COS-P14.2:** As part of CEQA and NEPA projects, evaluations of surface and subsurface cultural resources in the county shall be conducted. Such evaluations should involve consultation with the Northeast Information Center.
- **Policy COS-P14.3:** The Northeast Information Center and appropriate historic and preservation professionals shall be consulted when considering reuse of historic sites.
- **Policy COS-P15.1:** Areas found during construction to contain significant historic or prehistoric archaeological artifacts shall be examined by a qualified consulting archaeologist or historian for appropriate protection and preservation. Historic or prehistoric artifacts found during construction shall be examined by a qualified consulting archaeologist or historian to determine their significance and develop appropriate protection and preservation measures.
- **Policy COS-P15.2:** Any archaeological or paleontological resources on a development project site shall be either preserved in their sites or adequately documented as a condition of removal. When a development project has sufficient flexibility, avoidance and preservation of the resource shall be the primary mitigation measure.
- **Policy COS-P15.3:** Demolition permit application on potentially important historic sites shall be subject to discretionary review.
- **Policy COS-P16.2:** Impacts to the traditional Native American landscape shall be considered during California Environmental Quality Act or National Environmental Protection Act review of development proposals.
- **Policy COS-P16.3:** Human remains discovered during implementation of public and private development projects shall be treated with dignity and respect. Such treatment shall fully comply with the federal Native American Graves Protection and Repatriation Act and other appropriate laws.
- **Policy COS-P16.4:** If human remains are located during any ground disturbing activity, work shall stop until the County Coroner has been contacted, and, if the human remains are determined to be of Native American origin, the NAHC and most likely descendant have been consulted.
- **Policy COS-P16.5:** Consistent with State local and tribal intergovernmental consultation requirements such as SB18, the County shall consult with Native American tribes that may be interested in proposed new development projects and land use policy changes.

These policies are consistent with the state and federal processes outlined above.

## Memorandum of Understanding between the City of Chico and Mechoopda Indian Tribe

An MOU has been established between the City of Chico and Mechoopda Indian Tribe of Chico Rancheria, describing the original relationship to the land. The MOU establishes framework for consultation between the City of Chico and Mechoopda Indian Tribe prior to development of new open space or land use plans, per SB 18, to best protect cultural resources in the City of Chico and all of its open spaces through government-to-government communication.

### Chico 2030 General Plan

The Chapter 11 (Cultural Resources and Historic Preservation) element of the *Chico 2030 General Plan* identifies important local cultural, archaeological, and historic resources and establishes goals, policies, and actions for the protection and preservation of those resources. Importantly, the element supports a Memorandum of Understanding adopted in June 2008 between the City of Chico and the Mechoopda Indian Tribe of the Chico Rancheria. The element also establishes the policy guidance for the City of Chico's comprehensive Historic Preservation Program. To this end, the City of Chico adopted three goals specific to cultural resources in the General Plan:

- **Goal CRHP-1:** Protect and preserve archaeological, historical and other cultural resources to serve as significant reminders of the City's heritage and values.
- **Goal CRHP-2:** Reinvest in the archaeological, historical and other cultural resources that frame Chico's character and identity.
- **Goal CRHP-3:** Engage in and facilitate preservation efforts with local preservation and cultural entities.

The General Plan includes the following policies related to cultural resources:

- **Policy CRHP-1.1, Historic Preservation Program:** Maintain a comprehensive Historic Preservation Program that includes policies and regulations which protect and preserve the archeological, historical, and cultural resources of Chico.
- **Policy CRHP-2.1, Infill and Historic Preservation:** Integrate the values of historic preservation with infill development and adaptive reuse.
- **Policy CRHP-2.2, Adaptive Reuse:** Encourage the adaptive reuse of historic buildings when the original use of the structure is no longer feasible.
- **Policy CRHP-2.3, Demolition as Last Resort:** Limit the demolition of historic resources to an act of last resort, to be permitted only if: 1) rehabilitation of the resource is not feasible; 2) demolition is necessary to protect the health, safety, and welfare of its residents; or 3) the public benefits outweigh the loss of the historic resource.
- **Policy CRHP-2.4, Public Awareness of Heritage Resources:** Encourage public awareness of the heritage resources that helped shape the history of Chico.

- **Policy CRHP-2.5, Purchase of Historically Significant Buildings:** Explore grant funding, partnerships, and other opportunities to purchase historically significant buildings or sites that are eligible for State or National Registers as they become available.
- **Policy CRHP-3.1, Partnerships to Preserve Heritage Resources:** Foster partnerships with interested parties to preserve heritage resources.

These policies detail the City of Chico's protocols to, among others, identify, avoid, and mitigate impacts to archaeological, tribal, and built environment resources; integrate historic preservation into infill development; encourage public awareness of heritage resources; and establish partnerships with interested parties.

### **City of Chico Historic Preservation Ordinance**

The historic preservation ordinance of the City of Chico's Municipal Code (Chapter 19.37) specifically affords protection for properties listed on the City of Chico's Historic Resources Inventory and provides a mechanism to add historic properties to the Inventory through Landmark Overlay zoning districts. The ordinance also provides development incentives to owners of designated historic property and establishes a number of exempt activities such as ordinary maintenance and repair. Proposals to significantly alter or demolish structures listed on the City of Chico's Historic Resources Inventory are reviewed by the City of Chico's five-member Architectural Review and Historic Preservation Board. The Board also reviews nominations to the City of Chico's Inventory and forwards recommendations to the City Council for a final determination of listing.

### **California State University, Chico Research Foundation Ecological Reserves Management Plan, Memorandums of Understanding and Agreement**

California State University, Chico (CSU, Chico) has implemented a management plan for the Butte Creek Canyon Ecological Reserve (BCCER), which consists of a 287-acre property comprising two units, the Virgin Valley and Canyon Units, located along Butte Creek. The management plan includes a goal for natural and cultural resource preservation and enhancement, "to preserve and restore natural and cultural resources of the Reserve System in order to maintain ecological processes and enhance biological diversity; maintain the physical integrity and sociological sensitivity of historical and archeological sites, and protect the Reserves from undue encroachment or damage by human activities." In support of this goal, the management plan includes seven objectives related to cultural resources and a Cultural Resources Management Plan, which are consistent with the state and federal processes outlined above. According to the management plan, a number of cultural resources indicative of historical and pre-contact occupation are likely to occur on BCCER lands based on cultural resource inventories conducted on adjoining lands with similar landscape and habitat.

The Mechoopda Indian Tribe is partner with CSU, Chico to the Memorandum of Agreement Regarding Guiding Principles for CSU, Chico Consultation with the Mechoopda Indian Tribe of Chico Rancheria (2018) with commitments for consultation and development of a cultural resources plan regarding the recognized ancestral lands of the Mechoopda Indian Tribe that encompass the CSU, Chico campus. The Mechoopda Indian Tribe is also partner with Chico State Enterprises to the Memorandum of Understanding between the Mechoopda Indian Tribe of Chico Rancheria (Tribe) and Chico State Enterprises (CSE) (2020) for CSE-administered lands, which include the Big Chico

Creek Ecological Reserve and the Butte Creek Ecological Preserve; the Proposed Project intersects with the Butte Creek Ecological Preserve. The primary purpose of the Memorandum of Understanding is to facilitate communication, collaboration and consultation between the Parties as early as possible in the decision-making process to allow meaningful input into the development of programs, projects, plans, property decisions, use and/or activities that may impact cultural resources within CSE administered lands (e.g., the BCCER).

## C.18 Utilities and Service Systems

This section identifies the applicable federal, state, and local laws, regulations, orders, policies, and plans that are relevant to the analysis of utilities and service systems in the EIR, Section 3.18.

### C.18.1 Federal

#### Clean Water Act

The Clean Water Act establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. The USEPA implemented pollution control programs under the Clean Water Act that sets wastewater standards for the industry.

### C.18.2 State

#### California Integrated Waste Management Act (AB 939)

The California Integrated Waste Management Act (AB 939, Sher, Chapter 1095, Statutes of 1989 as amended) made all California cities, counties, and approved regional solid waste management agencies responsible for enacting plans and implementing programs to divert 25 percent of their solid waste by 1995 and 50 percent by the year 2000. Later legislation mandates the 50 percent diversion requirement be achieved every year.

### C.18.3 Regional and Local

#### Town of Paradise 1994 General Plan

The *Town of Paradise 1994 General Plan* provides direction on land use decision-making for the next 15 years. The General Plan process offers the Town the opportunity to plan proactively rather than reactively for future development. The General Plan includes the following pertinent goals and policies related to utilities and service systems:

- **Goal LUG-4:** Provide adequate public services and infrastructure to meet future need.
- **Objective LUO-5:** Assure that an adequate water supply exists prior to approval of development in the Paradise planning area.
- **Objective LUO-10:** Consider the construction and installation of a formal sewer system to service the commercial and industrial areas in the town within the 15-year planning period.
- **Policy LUP-12:** The character of future development should be compatible with the town's service delivery abilities and shall not result in service level declines.

- **Policy LUP-13:** The town shall attempt to assure that the rate and character of growth is commensurate with, or does not exceed the current levels of public services, and shall attempt to assure that municipal services can be provided to areas planned for annexation and development.

### **Butte County General Plan 2030**

The *Butte County General Plan 2030* provides Butte County direction on how it will fulfill its community vision and manage its future growth. The General Plan addresses all aspects of Butte County's development which includes land use, circulation, public facilities, and public safety. The General Plan includes the following pertinent goals and policies related to utilities and service systems:

- **Goal PUB-9:** Provide safe, sanitary and environmentally acceptable solid waste management.
- **Goal PUB-11:** Increase recycling among Butte County residents, businesses, and public agencies.
- **Goal PUB-12:** Manage wastewater treatment facilities at every scale to protect the public health and safety of Butte County residents and the natural environment.
- **Policy PUB-P11.2:** Construction sites shall provide for the salvage, reuse, or recycling of construction and demolition materials.
- **Policy W-P1.8:** The County supports conversion from septic systems to public sewer service, where feasible.
- **Policy PUB-P12.4:** New sewer collection and transmission systems shall be designed and constructed to minimize potential inflow and infiltration.
- **Policy PUB-P13.4:** Installation of sewer lines shall occur concurrently with construction of new roadways to maximize efficiency and minimize disturbance from construction activity.
- **Policy HS-P15.2:** Critical emergency response facilities such as fire, police, emergency service facilities and utilities shall be sited to minimize their exposure to flooding, seismic effects, fire, or explosion.

### **Butte County Power Butte Joint Powers Authority Agreement**

The Butte County Board of Supervisors and the Chico City Council have entered into a Joint Powers Authority agreement intended to provide residents of the unincorporated areas of Butte County as well as residents of the City of Chico the ability to choose where they purchase their energy from, and the joint agreement has been titled the Butte Choice Energy Authority.

### **Chico 2030 General Plan**

The *Chico 2030 General Plan* provides the City of Chico a comprehensive, long-range, and internally consistent policy framework for the growth and preservation of Chico. The General Plan consists of guiding principles, goals, policies, and actions in order to guide the City of Chico on the

physical development of Chico. The General Plan includes the following pertinent goals and policies related to utilities and service systems:

- **Goal PPFS-4:** Maintain a sanitary sewer system that meets the City's existing and future needs, complies with all applicable regulations, and protects the underlying aquifer.
- **Goal PPFS-5:** Maintain a sustainable supply of high-quality water, delivered through an efficient water system to support Chico's existing and future population, including fire suppression efforts.
- **Goal PPFS-8:** Ensure that solid waste and recyclable collection services are available to City residents.
- **Policy SUS-3.3, Municipal Waste Reduction:** Reduce consumption and increase recycling and reuse of materials in City operations.
- **Policy PPFS-4.1, Sanitary Sewer System:** Improve and expand the sanitary sewer system as necessary to accommodate the needs of existing and future development.
- **Policy PPFS-4.3, Capacity of Water Pollution Control Plant:** Increase system capacity by reducing wet weather infiltration into the sanitary sewer system.
- **Policy PPFS-4.4, Wastewater Flows:** Ensure that total flows are effectively managed within the overall capacity of the Water Pollution Control Plant.

### City of Chico Sanitary System Management Plan

The City of Chico Sanitary System Management Plan was adopted on May 2, 2006, and was prepared to follow requirements of the State Water Resources Control Board Order No. 2006-0003. The plan is a combination of policies, procedures, and activities that would aid in the planning, management, operation, and maintenance of the City of Chico's sanitary sewer system.

## C.19 Wildfire

### C.19.1 Federal

#### The National Strategy

Pursuant to the 2009 Federal Land Assistance, Management, and Enhancement Act, the U.S. Department of Agriculture and U.S. Department of the Interior developed a national cohesive strategy to comprehensively address wildland fire management across all lands in the United States. The National Strategy recognizes and accepts fire as a natural process necessary for the maintenance of many ecosystems and strives to reduce conflicts between fire-prone landscapes and people (USDA and DOI, 2014). Specifically, the National Strategy identifies the following primary goals:

- **Restoration and maintenance of landscapes:** Landscapes across all jurisdictions are resilient to fire-related disturbances in accordance with management objectives.

- **Fire-adapted communities:** Human populations and infrastructure can withstand a wildfire without loss of life and property.
- **Wildfire response:** All jurisdictions participate in making and implementing safe, effective, efficient risk-based wildfire management decisions.

The National Strategy guides federal direction for the state and local agencies responsible for fire protection in the vicinity of the Proposed Project.

### **FEMA HMGP Grant – Town of Paradise Wildfire Mitigation Projects**

The Town of Paradise, in Butte County, California, is proposing wildfire mitigation activities to enhance fire safety and mitigate the threat of wildfire. The purpose of the proposed HMGP grants is to protect people and property by reducing wildfire-related hazards within Paradise. Per Paradise, the Projects would implement wildfire mitigation measures throughout the town, through a combination of enhanced enforcement, education, and incentives to help property owners reduce hazards on their own lands and reduce hazardous fuels on town rights-of-way. The four projects include the following: (1) enhancing code enforcement activities to manage hazardous fuels and defensible space, (2) introducing a residential ignition-resistant improvement and defensible space program, (3) hazardous fuel reduction along town rights-of-way, and (4) removing hazardous dead or dying trees on private properties (FEMA 2022).

## **C.19.2 State**

### **2018 Strategic Fire Plan for California**

The *2018 Strategic Fire Plan for California*, developed by the State Board of Forestry and Fire Protection, provides direction and guidance to CAL FIRE and its 21 field units. This plan sets forth a number of goals focused on fire prevention, natural resource management, and fire suppression efforts, including the following (CAL FIRE, 2018):

- Improve the availability and use of consistent, shared information on hazard and risk assessment.
- Promote the role of local planning processes, including general plans, new development, and existing developments, and recognize individual landowner/homeowner responsibilities.
- Foster a shared vision among communities and the multiple fire protection jurisdictions, including county-based plans and community-based plans such as community wildfire protection plans.
- Increase awareness and actions to improve fire resistance of human-made assets at risk and fire resilience of wildland environments through natural resource management.
- Integrate implementation of fire and vegetative fuels management practices consistent with the priorities of landowners or managers.
- Determine and seek the needed level of resources for fire prevention, natural resource management, fire suppression, and related services.

- Implement needed assessments and actions for post-fire protection and recovery.

The 2018 Strategic Fire Plan for California guides CAL FIRE oversight of local agencies' responsibilities for fire protection and natural resource management in the vicinity of the Proposed Project.

### **Community Wildfire Prevention and Mitigation Report**

CAL FIRE prepared the Community Wildfire Prevention & Mitigation Report in response to Executive Order N-05-19, which directed CAL FIRE, in consultation with other state agencies and departments, to recommend immediate, medium-term, and long-term actions to help prevent destructive wildfires, with a specific focus on vulnerable communities and populations in the state (CAL FIRE, 2019).

Based on local fire plans developed by CAL FIRE units, CAL FIRE identified 35 priority projects for immediate implementation to help reduce public safety risks for more than 200 communities.

Projects include removal of hazardous dead trees, vegetation clearing, creation of fuel breaks and community defensible spaces, and creation of ingress and egress corridors. The *Community Wildfire Prevention & Mitigation Report* also identifies near-term administrative, regulatory, and policy actions to address community vulnerability and wildfire fuel buildup through rapid deployment of resources.

CAL FIRE's identified medium-term and long-term actions encourage coordination and cooperation among the various levels of regional and local fire protection agencies.

### **California Fire Code**

The California Fire Code (California Code of Regulations title 24, part 9) establishes minimum requirements to safeguard the public health, safety, and general welfare from the hazards of fire, explosion, or dangerous conditions in new and existing buildings. Chapter 33 of the code contains requirements for fire preserving safety during construction, such as to develop a pre-fire plan in coordination with the fire chief, maintain vehicle access for firefighting at construction sites, and meet requirements for safe operation of construction equipment powered by internal combustion engines.

### **CAL FIRE Fire Hazard Severity Zone Mapping**

CAL FIRE's Fire and Resource Assessment Program has modeled and mapped wildfire hazard zones using a science-based, field-tested computer model that assigns an FHSZ rating of moderate, high, or very high. CAL FIRE develops maps depicting FHSZs based on factors such as fuel, weather, terrain, and probability of future occurrence (Santa Clara County, 2017a).

The Board of Forestry and Fire Protection designates responsibility for wildland fire protection and prevention within FHSZs. State Responsibility Areas (SRAs) are defined as areas where the State of California has financial responsibility for wildland fire protection and prevention; incorporated cities and federal ownership are not included. Within SRAs, CAL FIRE is responsible for fire prevention and suppression (Public Resources Code section 4125; Office of the State Fire Marshal, 2021).

Local Responsibility Areas (LRAs) are defined as incorporated cities, urban regions, agricultural lands, and portions of the desert where the local government is responsible for wildfire protection. This is typically provided by city fire departments, fire protection districts, counties, and in some instances by CAL FIRE under contract (Office of the State Fire Marshal, 2021).

FHSZ maps evaluate wildfire hazards, which are physical conditions that create a likelihood that an area will burn over a 30- to 50-year period. They do not take into account modifications such as fuel reduction efforts (Office of the State Fire Marshal, 2021). FHSZs are meant to help limit wildfire damage to structures through planning, prevention, and mitigation activities/requirements that reduce risk (Office of the State Fire Marshal, 2021).

### **C.19.3 Regional and Local**

#### **Butte County Local Hazard Mitigation Plan (LHMP) Update, 2019**

In 2006, the state adopted Assembly Bill (AB) 2140 which added provisions specifying what is to be included in a LHMP and requiring a linkage between local jurisdictions' LHMP and the Safety Element of their General Plan. Butte County has a current LHMP which includes an assessment of the County's risk and vulnerability related to natural and other identified hazards and a comprehensive mitigation strategy which includes actions and projects designed to mitigate or reduce the impacts of those hazards and to increase community resiliency.

#### **Butte County General Plan 2030 Health and Safety Element**

The Health and Safety Element provides information about risks in Butte County due to natural and huma-made disasters. The LHMP, discussed above, is considered a part of the Health and Safety Element. The following goals and policies are relevant to wildland fires.

- Goal HS-11: Reduce risks from wildland fire and urban fire.
- Policy HS-P11.1: Fire hazards shall be considered in all land use and zoning decisions, environmental review, subdivisions review and the provision of public services.
- Policy HS-P11.2: Create communities that are resistant to wildfire by supporting the implementation of community wildfire protection plans and wildfire fuel load reduction measures in coordination with the appropriate government, community group, or non-profit organization and California Department of Forestry and Fire Protection (CAL FIRE).
- Policy HS-P11.3: The County supports the Wildfire Mitigation Action Plan, the Butte County Local Hazard Mitigation Plan (LHMP), and the Butte Unit Community Wildfire Protection Plan prepared by CAL FIRE and will cooperate with the Butte County Fire Department and the Butte County Fire Safe Council in implementing these plans.
- Policy HS-P11.4: New development projects shall meet current fire safe ordinance standards for adequate emergency water flow, emergency vehicle access, signage, evacuation routes, fuel management, defensible space, fire safe building construction and wildfire preparedness.
- Goal HS-12: Protect people and property from wildland or urban fires.
- Policy HS-P12.4: All development projects in wildland urban interface areas in High or Very High Fire Hazard Severity Zones shall provide, at a minimum, small-scale water systems for fire protection.

#### **Butte County Pre-Disaster Mitigation Plan**

The Butte County Pre-Disaster Mitigation Plan was developed by the Butte County Office of Emergency Management to meet the requirements of the Disaster Mitigation Act of 2000. The purpose of the plan is to provide strategies and enumerate potential projects for mitigating or reducing the loss of life and property in the event of an emergency or disaster within the confines of Butte County and its political subdivisions (Butte County Office of Emergency Management 2010).

### **Butte County Community Wildfire Protection Plan 2020-2025**

The Butte County Community Wildfire Protection Plan was developed by Federal, State, and local agencies in order to identify and prioritize pre-fire and post-fire management strategies and tactics meant to reduce the loss of value at risk within Butte County. The plan establishes a framework for reducing the risks associated with wildfire by placing emphasis on what needs to be done before the fire starts. The plan strives to reduce firefighting costs and property losses, increase firefighter safety, and to enhance ecosystem health (Butte County 2020).

### **Town of Paradise General Plan Safety Element**

The purpose of the Safety Element is to reduce the risk of death, injuries, property damage, and other economic and social consequences associated with natural and societal hazards, such as wildland fires. The following goals and policies are relevant to wildland fires:

- Goal SG-1: Assure that law enforcement and fire protection services are enhanced sufficiently to meet the demands of new and existing land use development.
- Policy SP-1: New and unmitigated land use development shall not cause the police and fire protection services emergency response times to fall below the service levels established by this plan.
- Policy SP-2: Through the development review process, adequate roads shall be required to be constructed and/or improved for emergency vehicle access, particularly in high wildland fire hazard areas.
- Policy SP-3: Future development should be designed and constructed to take maximum advantage of known fire and crime prevention siting, orientation and building techniques.
- Policy SP-5: The town should promote fire prevention by continuing to require brush removal and fuel load clearing as ongoing conditions of development approval and property maintenance.
- Implementation Measure SI-6: Enforce and comply with the provisions of the Uniform Building Code and Uniform Fire Code.

### **Town of Paradise Emergency Operations Plan (EOP)**

The purpose of the EOP, its Functional Annexes and Hazard/Threat Specific Appendices is to provide the basis for a coordinated response before, during, and after a disaster incident affecting the Town of Paradise. The EOP is the principal guide for the town's response to, and management of real or potential emergencies and disasters occurring within its designated geographic boundaries. It also identifies how the town integrates into the Standardized Emergency

management System (SEMS) and the National Incident Management System (NIMS). Reducing risks from and response to wildland fire is also discussed in the EOP and focuses on fuel reduction and the reduction of wildland fire to infrastructure.

### **Paradise Fire Safe Council**

Founded in 1999, the Paradise Fire Safe Council is comprised of volunteer community members under the umbrellas of the Butte County Fire Safe Council and the California Fire Safe Council. The council is designated under the Town of Paradise to provide community input on wildfire prevention and safety (Paradise Fire Safe Council 2008).

### **Chico General Plan Safety Element**

The Safety Element of the Chico General Plan identifies known safety threats and hazards, along with the City's approach to managing these risks and hazards. The safety element covers fire risks and the provision of law enforcement and emergency services. The following goals and policies are relevant to wildland fires:

- Goal S-4: Continue to provide effective and efficient fire protection and prevention services to Chico area residents.
- Action S-4.1.1 (Fire Response Time): Strive to obtain an initial response time of five and a half minutes or less for at least 90 percent of fire emergency response calls in urbanized areas.
- Action S-4.3.3 (Project Design): As part of the project review process in wildland fire areas, require consideration of emergency evacuation routes and defensible buffer areas.
- Policy S-4.4 (Vegetation management): Support vegetation management and weed abatement programs that reduce fire hazards.