DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
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DRAFT FINDING OF NO SIGNIFICANT IMPACT

Richard L. Schafer Dam, Tule River Basin, California; Tule River Spillway Enlargement Project, Spillway Raise Tulare County, California

The U.S. Army Corps of Engineers, Sacramento District (Corps) has conducted an environmental analysis in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended. The Final Environmental Assessment (EA) dated January 2021, for the Richard L. Schafer Dam, Tule River Basin, California; Tule River Spillway Enlargement Project, Spillway Raise addresses proposed design modifications to the project and was authorized for construction in Title I, Section 101 of the Water Resources Development Act of 1999, Public Law No. 106-53, Section 101, 113 Statute 279 (1999).

A Final Environmental Impact Statement/Final Environmental Impact Report (FEIS/FEIR) was completed in September 1999. The 2021 Final EA is an updated environmental document that incorporates proposed design refinements for the construction of Phase 2, including constructing a 10 foot-high concrete ogee weir across the dam's emergency spillway, armoring the California Highway 190 bridge with additional rock revetment, adding rock slope protection to Frazier Dike, relocating or protecting in place several structures and supporting utilities at both Rocky Hill and Tule Recreational Areas, relocation of several distribution power poles, and replacing 15 transmission towers with 14 taller ones and 11,800 feet of power lines. The 2021 Final EA was prepared under the old NEPA regulations since the NEPA analyses began before the new regulations took effect on September 14, 2020.

Two alternatives were evaluated for design refinements to the Phase 2 features: the No Action alternative and the Spillway Raise (proposed action alternative).

Under the No Action alternative, the Phase 2 action would be as described in the 1999 FEIS/FEIR: construction of a concrete ogee weir over the existing broadcrested sill, which would raise the gross pool by 10 feet, and flood-proofing or relocating infrastructure and recreation facilities around the lake. More specifically, a 10 foot-high concrete ogee weir would be constructed across the emergency spillway at Richard L. Shafer Dam, which would raise Lake Success' gross pool elevation from 655.1 feet to 665.1 feet (NAVD88). The gross pool elevation represents the highest water level in the reservoir. Due to the increased gross pool elevation, land or flowage easements would be acquired around the lake and Southern California Edison (SCE) would raise 12 transmission towers, relocate two transmission towers, and replace 11,800 feet of transmission lines to meet minimum clearance requirements. In addition, the No Action alternative includes the Phase 1 action as described in an April 2020 EA and FONSI: widening the spillway right abutment 165 feet and relocating Worth Drive/Avenue 146. Construction on the Phase 1 action began in August, 2020. Under the No Action alternative, impacts to aesthetics and visual resources,

air quality, cultural resources, federally protected species, fisheries, land use, noise, prime and unique farmland, recreation, socioeconomics and environmental justice, traffic, vegetation and wildlife, and water quality were re-evaluated based on updated regulations and new available information.

The proposed action captures the changes to the 1999 authorized project resulting from development of detailed designs for Phase 2 of the Spillway Raise. In addition to the features of the authorized project identified in the No Action alternative, the proposed action changes the location of the expanded boat ramp and parking lot from the Tule Recreation Area to the Rocky Hill Recreation Area, refines plans for relocating or protecting infrastructure and recreation facilities around the lake, updates the SCE transmission tower relocation design to reduce the in-water footprint and minimize ground disturbance, and includes the relocation or removal of several SCE distribution power poles. The northern boat ramp and adjacent parking lot at the Tule Recreation Area were already extended/widened in the early 2000s. Therefore, the current design switches the location of the new expanded boat ramp and parking lot to the Rocky Hill Recreation Area to better balance recreation use across the lake during high lake levels caused by the spillway raise. The potential relocation or removal of SCE distribution power poles was an oversight from the 1999 FEIS/FEIR.

For all alternatives, the potential effects were evaluated, as appropriate. The effects of the No Action alternative were updated using current laws, regulations, and new information. The recommended plan did not have any additional significant effects beyond the No Action alternative. There was a slight increase in air emissions for the proposed action, but it did not change the significance determination. A summary assessment of the potential effects of the proposed action is listed in Table 1.

Table 1: Summary of Potential Effects of the Recommended Plan

	Less than significant effects	Less than significant effects as a result of mitigation	Resource unaffected by action
Climate Change	☐	☐	☒
Hazardous, Toxic & Radioactive Waste	☐	☐	☒
Prime or Unique Farmlands	☐	☐	☒
Topography, Geology, and Radioactive Waste	☐	☐	☒
Fisheries	☐	☐	☒
Aesthetics and Visual Resources	☐	☐	☒
Air Quality	☐	☒	☐
Cultural Resources	☐	☒	☐
Federal Special Status Species	☐	☒	☐

	Less than significant effects	Less than significant effects as a result of mitigation	Resource unaffected by action
Land Use	☐	☒	☐
Socioeconomics and Environmental Justice	☐	☒	☐
Noise and Vibration	☒	☐	☐
Recreation	☐	☒	☐
Traffic	☒	☐	☐
Vegetation and Wildlife	☐	☒	☐
Water Quality	☒	☐	☐

All practicable and appropriate means to avoid or minimize adverse environmental effects were analyzed and incorporated into the proposed action. Best management practices (BMPs) as detailed in the EA will be implemented, as appropriate, to minimize impacts.

While the authorized project would result in the periodic inundation of grassland, riparian woodland, and *Atriplex* grassland habitat around the perimeter of the lake as identified in the 1999 EIS/EIR, the proposed design refinements for Phase 2 would result in fewer effects as shown in Table 2 below. To mitigate for these unavoidable adverse impacts, the Corps will acquire and preserve 293 acres of grassland and plant *Atriplex* community species on 28.6 acres of lands adjacent to or within the remaining wildlife management area, above the new gross pool. It is difficult to quantify the effects on the 44 acres of riparian woodland since riparian areas already experience periodic inundation. Appropriate mitigation for these effects is being determined through ongoing consultation under the Fish and Wildlife Coordination Act.

Table 2: Comparison of effects to habitat and special status species with proposed mitigation

	Affected acres			Compensation acres		
Habitat	**1999 FEIS/FEIR**	**2020 No Action**	**2020 Proposed Action**	**1999 FEIS/FEIR**	**2020 No Action**	**2020 Proposed Action**
Grassland	421	421	421	425	293	293
Atriplex grassland	167	97.6	97.6	150	28.6	28.6
Riparian woodland	71	44	44	82	44[1]	44[1]
Oak trees	10 trees	10 trees	10 trees	100 seedlings[2]	100 seedlings[2]	100 seedlings[2]
Mineshafts for bats	Two mineshafts	N/A	N/A	Build berms to protect from higher lake levels	N/A[3]	N/A[3]
Flooded agricultural land in Tulare Lakebed[4]	867	N/A	N/A	247	N/A	N/A
Elderberry shrub	12 shrubs	N/A	N/A	1.5	N/A	N/A
San Joaquin adobe sunburst	5 plants	N/A	N/A	1.5[5]	N/A	N/A

1. Coordination on mitigation acreage is ongoing; final acreage may vary.
2. To be planted on project mitigation lands along main and south forks of the Tule River.
3. Based on updated lidar and on-the-ground surveys, the mineshaft entrances are above the new proposed gross pool and are no longer at risk from flooding
4. Based on the 1999 FEIS/FEIR, the spillway raise would reduce periodic flooding of agricultural lands, which could reduce usage by waterfowl and shorebirds. Updated hydrologic models shows no change in flooding of Tulare Lakebed under the 2020 No Action or Proposed Action.
5. Based on the 1999 FEIS/FEIR, Corps would mitigate for inundation of 5 San Joaquin adobe sunburst plants by protecting three 0.5-acre parcels of government-owned land from cattle with exclusionary fencing.

Pursuant to section 7 of the Endangered Species Act of 1973, as amended, the U.S. Fish and Wildlife Service (FWS) issued a biological opinion (BO), dated December 17, 1999, that determined that the recommended plan will not jeopardize the continued existence of the following federally listed species or adversely modify designated critical habitat: San Joaquin kit fox (*Vulpes macrotis mutica*), endangered (March 11, 1967, 32 FR 4001) and San Joaquin adobe sunburst (*Pseudobahia peirsonii*), threatened (February 6,

1997, 62 FR 5542). The Corps re-initiated consultation with the USFWS in 2019 for two reasons: (1) The road relocation and spillway widening to accommodate the ogee weir design were not covered in detail in the 1999 FEIS/FEIR and accompanying Biological Data Report due to insufficient information on the future location of the road and hydraulics of the spillway; and (2) There were changes regarding the listed species referenced in the 1999 BO. The Corps received a supplemental BO from the USFWS on February 19, 2020. The Corps has determined that the design refinements for both Phase 1 and Phase 2 may affect, and are likely to adversely affect, only San Joaquin kit fox and San Joaquin adobe sunburst. Due to BMPs, impacts from Phase 1 and 2 on these two species would be less than significant and would not jeopardize their continued existence. All terms and conditions, conservation measures, and reasonable and prudent measures resulting from these consultations shall be implemented to minimize take of endangered species and avoid jeopardizing the species.

Pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended, the Corps determined that historic properties may be adversely affected by the recommended plan. To resolve the adverse effects of the undertaking, the Corps entered into a Programmatic Agreement (PA) with the California State Historic Preservation Officer (SHPO) dated December 2019. Consistent with the requirements of the PA, the Corps will implement a Historic Property Treatment Plan to guide responses to unanticipated discoveries and mitigate for adverse effects to known historic properties. Additionally, the Corps invited the following Native American tribes and communities identified by the California Native American Heritage Commission as having cultural resources interests in the Area of Potential Effects (APE) to consult under Section 106: Tule River Indian Tribe, Santa Rosa Rancheria Tachi Yokut Tribe, Kern Valley Indian Community, Tubatulabals of Kern Valley, and Wuksache Indian Tribe/Eshom Valley Band. The Tule River Indian Tribe and Santa Rosa Rancheria Tachi Yokut Tribe requested consulting party status. The Corps will continue to consult with the SHPO and Tribes pursuant to the PA. All terms and conditions of the PA shall be implemented in order to avoid, minimize, and mitigate adverse impacts to historic properties.

The Corps is required to obtain a 401 Water Quality Certification and conduct a 404(b)(1) evaluation to comply with the Clean Water Act. A water quality certification pursuant to section 401 of the CWA will be obtained from the State Water Resource Control Board prior to construction. In a letter dated 30 June 2020, the Central Valley Regional Water Quality Control Board stated that the recommended plan appears to meet the requirements of the water quality certification, pending confirmation based on information to be developed during the pre-construction engineering and design phase. All conditions of the water quality certification will be implemented in order to minimize adverse impacts to water quality.

All applicable environmental laws have been considered and coordination with appropriate agencies and officials has been completed.

A public review of the Draft EA and FONSI occurred from November 23, 2020, through December 23, 2020. All comments submitted during the public review period were considered and incorporated into the Final EA and FONSI, as appropriate.

Technical, environmental, and economic criteria used in the formulation of alternative plans were those specified in the Water Resources Council's 1983 Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies. All applicable laws, executive orders, regulations, and local government plans were considered in evaluation of alternatives. Based on this report, the reviews by other Federal, State and local agencies, Tribes, input of the public, and the review by my staff, it is my determination that the recommended plan would not cause significant adverse effects on the quality of the human environment; therefore, preparation of an Environmental Impact Statement is not required.

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Date

James J. Handura
Colonel, U.S. Army
Commander and District Engineer